
EMERGENCY REQUEST OF SENATE MINORITY LEADER

SENATE BILL NO. 520—SENATORS ROBERSON, CEGAVSKE,
HUTCHISON, BROWER, KIECKHEFER; GOICOECHEA,
GUSTAVSON, HAMMOND, HARDY AND SETTELMAYER

MAY 28, 2013

JOINT SPONSORS: ASSEMBLYMEN HICKEY, WOODBURY, DUNCAN,
HARDY, KIRNER; ELLISON, FIORE, GRADY, HAMBRICK,
HANSEN, OSCARSON, STEWART AND WHEELER

Referred to Committee on Judiciary

SUMMARY—Makes certain changes relating to public safety.
(BDR 14-1234)

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

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

AN ACT relating to public safety; requiring a court to transmit within 5 business days certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; authorizing the inclusion, correction and removal of the information in such records in each appropriate database of the National Crime Information Center; requiring each agency of criminal justice to submit information relating to records of criminal history within 60 days after the date of the conviction; requiring the Central Repository, upon request, to conduct a background check without charge on a person who wishes to acquire a firearm; prohibiting certain persons from having possession, custody or control of a firearm; prohibiting certain persons from selling a firearm under certain circumstances; revising the functions of the Division of Mental Health and Developmental Services of the Department of Health and Human Services; requiring a mental health professional to notify certain persons when a patient makes certain explicit threats of imminent serious physical harm or death; providing penalties; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

1 Existing law requires a court to transmit to the Central Repository for Nevada
2 Records of Criminal History a record of any court order, judgment, plea or verdict
3 concerning the involuntary admission of a person to a mental health facility, the
4 appointment of a guardian for a person with a mental defect, a finding that a person is
5 incompetent to stand trial, a verdict acquitting a defendant by reason of insanity or a
6 plea or finding of guilty but mentally ill, along with a statement that the record is
7 being transmitted for inclusion in all appropriate databases of the National Instant
8 Criminal Background Check System. (NRS 159.0593, 174.035, 175.533, 175.539,
9 178.425, 433A.310) **Sections 1-4, 13 and 17** of this bill require such records to be
10 transmitted to the Central Repository within 5 business days.

11 Existing law requires the inclusion, correction and removal of information in
12 records of criminal history in each appropriate database of the National Instant
13 Criminal Background Check System. (NRS 179A.163, 179A.165, 179A.167,
14 433A.310) **Sections 8-10 and 17** of this bill also authorize or require, as appropriate,
15 the inclusion, correction and removal of such information in each appropriate database
16 of the National Crime Information Center. **Section 5** of this bill defines "National
17 Crime Information Center" to mean the computerized information system created and
18 maintained by the Federal Bureau of Investigation pursuant to 28 U.S.C. § 534.

19 Existing law requires each agency of criminal justice to submit information
20 relating to records of criminal history within the period prescribed by the Director of
21 the Department of Public Safety. (NRS 179A.075) **Section 7** of this bill requires the
22 submission of such information within 60 days after the date of the conviction.

23 Existing law authorizes a private person who wishes to transfer a firearm to
24 another person to request the Central Repository to perform a background check on
25 the person who wishes to acquire the firearm. (NRS 202.254) **Section 14** of this bill
26 prohibits the Central Repository from charging a fee to perform the background check.
27 **Section 14** further provides immunity from civil and criminal liability to a person who
28 does not request a background check or who requests a background check for any act
29 or omission that was taken in good faith and without malicious intent. Finally, **section**
30 **14** allows the Director of the Department of Public Safety to request an allocation
31 from the Contingency Account in the State General Fund if necessary to cover the cost
32 of providing background checks without the imposition of a fee.

33 Existing law prohibits a person who has been adjudicated as mentally ill, has been
34 committed to any mental health facility or is illegally or unlawfully in the United
35 States from possessing or having custody or control of a firearm. (NRS 202.360)
36 **Section 15** of this bill also prohibits a person who has entered a plea of guilty but
37 mentally ill, has been found guilty but mentally ill or has been acquitted by reason of
38 insanity from possessing or having custody or control of a firearm.

39 Existing law prohibits a person from selling or otherwise disposing of any firearm
40 or ammunition to another person if he or she has actual knowledge that the other
41 person: (1) is under indictment for, or has been convicted of, a felony; (2) is a fugitive
42 from justice; (3) has been adjudicated as mentally ill or has been committed to a
43 mental health facility; or (4) is illegally or unlawfully in the United States. (NRS
44 202.362) **Section 16** of this bill prohibits a person from selling, transferring or
45 otherwise disposing of any firearm or ammunition to another person or purchasing a
46 firearm on behalf of or for another person with the intent to transfer the firearm to that
47 person if he or she has reasonable cause to believe that the other person meets any of
48 those listed conditions, if the other person is otherwise prohibited from possessing a
49 firearm or if the other person is a member of a criminal gang.

50 Existing law provides that a patient has a privilege to refuse to disclose and to
51 prevent any other person from disclosing confidential communications between the
52 patient and the patient's psychologist or doctor. (NRS 49.209, 49.225) **Sections 11**
53 **and 12** of this bill provide exceptions to the privilege for certain determinations which
54 are now required pursuant to this bill.



55 Existing law: (1) designates the Division of Mental Health and Developmental
56 Services of the Department of Health and Human Services as the official state agency
57 for developing and administering outpatient mental health services; and (2) requires
58 the Division to perform certain functions relating to mental health. (NRS 436.123)
59 **Section 18** of this bill requires the Division to also assist and consult with local
60 governments and all law enforcement agencies in this State in providing community
61 mental health services.

62 Existing law imposes various requirements and duties on certain health care
63 professionals. (Chapter 629 of NRS) **Section 19** of this bill provides that if a patient of
64 a mental health professional makes an explicit threat of imminent serious physical
65 harm or death to a person, and the mental health professional believes the patient has
66 the intent and ability to carry out the threat, the mental health professional must notify
67 the threatened person and the appropriate law enforcement agency. A mental health
68 professional who exercises reasonable care in determining whether or not to provide
69 notice of such a threat is not subject to civil or criminal liability or disciplinary action
70 by a professional licensing board for disclosing confidential or privileged information
71 or for any damages caused by the actions of a patient.

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

- 1 **Section 1.** NRS 174.035 is hereby amended to read as follows:
2 174.035 1. A defendant may plead not guilty, guilty, guilty
3 but mentally ill or, with the consent of the court, nolo contendere.
4 The court may refuse to accept a plea of guilty or guilty but
5 mentally ill.
6 2. If a plea of guilty or guilty but mentally ill is made in a
7 written plea agreement, the agreement must be in substantially the
8 form prescribed in NRS 174.063. If a plea of guilty or guilty but
9 mentally ill is made orally, the court shall not accept such a plea or a
10 plea of nolo contendere without first addressing the defendant
11 personally and determining that the plea is made voluntarily with
12 understanding of the nature of the charge and consequences of the
13 plea.
14 3. With the consent of the court and the district attorney, a
15 defendant may enter a conditional plea of guilty, guilty but mentally
16 ill or nolo contendere, reserving in writing the right, on appeal from
17 the judgment, to a review of the adverse determination of any
18 specified pretrial motion. A defendant who prevails on appeal must
19 be allowed to withdraw the plea.
20 4. A plea of guilty but mentally ill must be entered not less
21 than 21 days before the date set for trial. A defendant who has
22 entered a plea of guilty but mentally ill has the burden of
23 establishing the defendant's mental illness by a preponderance of
24 the evidence. Except as otherwise provided by specific statute, a
25 defendant who enters such a plea is subject to the same criminal,
26 civil and administrative penalties and procedures as a defendant who
27 pleads guilty.



1 5. The defendant may, in the alternative or in addition to any
2 one of the pleas permitted by subsection 1, plead not guilty by
3 reason of insanity. A plea of not guilty by reason of insanity must be
4 entered not less than 21 days before the date set for trial. A
5 defendant who has not so pleaded may offer the defense of insanity
6 during trial upon good cause shown. Under such a plea or defense,
7 the burden of proof is upon the defendant to establish by a
8 preponderance of the evidence that:

9 (a) Due to a disease or defect of the mind, the defendant was in a
10 delusional state at the time of the alleged offense; and

11 (b) Due to the delusional state, the defendant either did not:

12 (1) Know or understand the nature and capacity of his or her
13 act; or

14 (2) Appreciate that his or her conduct was wrong, meaning
15 not authorized by law.

16 6. If a defendant refuses to plead or if the court refuses to
17 accept a plea of guilty or guilty but mentally ill or if a defendant
18 corporation fails to appear, the court shall enter a plea of not guilty.

19 7. A defendant may not enter a plea of guilty or guilty but
20 mentally ill pursuant to a plea bargain for an offense punishable as a
21 felony for which:

22 (a) Probation is not allowed; or

23 (b) The maximum prison sentence is more than 10 years,
24 ↪ unless the plea bargain is set forth in writing and signed by the
25 defendant, the defendant's attorney, if the defendant is represented
26 by counsel, and the prosecuting attorney.

27 8. If the court accepts a plea of guilty but mentally ill pursuant
28 to this section, the court shall cause, *within 5 business days after*
29 *acceptance of the plea*, on a form prescribed by the Department of
30 Public Safety, a record of that plea to be transmitted to the Central
31 Repository for Nevada Records of Criminal History along with a
32 statement indicating that the record is being transmitted for
33 inclusion in each appropriate database of the National Instant
34 Criminal Background Check System.

35 9. As used in this section:

36 (a) "Disease or defect of the mind" does not include a disease or
37 defect which is caused solely by voluntary intoxication.

38 (b) "National Instant Criminal Background Check System" has
39 the meaning ascribed to it in NRS 179A.062.

40 **Sec. 2.** NRS 175.533 is hereby amended to read as follows:

41 175.533 1. During a trial, upon a plea of not guilty by reason
42 of insanity, the trier of fact may find the defendant guilty but
43 mentally ill if the trier of fact finds all of the following:

44 (a) The defendant is guilty beyond a reasonable doubt of an
45 offense;



1 (b) The defendant has established by a preponderance of the
2 evidence that due to a disease or defect of the mind, the defendant
3 was mentally ill at the time of the commission of the offense; and

4 (c) The defendant has not established by a preponderance of the
5 evidence that the defendant is not guilty by reason of insanity
6 pursuant to subsection 5 of NRS 174.035.

7 2. Except as otherwise provided by specific statute, a defendant
8 who is found guilty but mentally ill is subject to the same criminal,
9 civil and administrative penalties and procedures as a defendant who
10 is found guilty.

11 3. If the trier of fact finds a defendant guilty but mentally ill
12 pursuant to subsection 1, the court shall cause, *within 5 business*
13 *days after the finding*, on a form prescribed by the Department of
14 Public Safety, a record of the finding to be transmitted to the Central
15 Repository for Nevada Records of Criminal History, along with a
16 statement indicating that the record is being transmitted for
17 inclusion in each appropriate database of the National Instant
18 Criminal Background Check System.

19 4. As used in this section:

20 (a) "Disease or defect of the mind" does not include a disease or
21 defect which is caused solely by voluntary intoxication.

22 (b) "National Instant Criminal Background Check System" has
23 the meaning ascribed to it in NRS 179A.062.

24 **Sec. 3.** NRS 175.539 is hereby amended to read as follows:

25 175.539 1. Where on a trial a defense of insanity is
26 interposed by the defendant and the defendant is acquitted by reason
27 of that defense, the finding of the jury pending the judicial
28 determination pursuant to subsection 2 has the same effect as if the
29 defendant were regularly adjudged insane, and the judge must:

30 (a) Order a peace officer to take the person into protective
31 custody and transport the person to a forensic facility for detention
32 pending a hearing to determine the person's mental health;

33 (b) Order the examination of the person by two psychiatrists,
34 two psychologists, or one psychiatrist and one psychologist who are
35 employed by a division facility; and

36 (c) At a hearing in open court, receive the report of the
37 examining advisers and allow counsel for the State and for the
38 person to examine the advisers, introduce other evidence and cross-
39 examine witnesses.

40 2. If the court finds, after the hearing:

41 (a) That there is not clear and convincing evidence that the
42 person is a person with mental illness, the court must order the
43 person's discharge; or

44 (b) That there is clear and convincing evidence that the person is
45 a person with mental illness, the court must order that the person be



1 committed to the custody of the Administrator of the Division of
2 Mental Health and Developmental Services of the Department of
3 Health and Human Services until the person is discharged or
4 conditionally released therefrom in accordance with NRS 178.467 to
5 178.471, inclusive.

6 ➤ The court shall issue its finding within 90 days after the
7 defendant is acquitted.

8 3. The Administrator shall make the reports and the court shall
9 proceed in the manner provided in NRS 178.467 to 178.471,
10 inclusive.

11 4. If the court accepts a verdict acquitting a defendant by
12 reason of insanity pursuant to this section, the court shall cause,
13 *within 5 business days after accepting the verdict*, on a form
14 prescribed by the Department of Public Safety, a record of that
15 verdict to be transmitted to the Central Repository for Nevada
16 Records of Criminal History, along with a statement indicating that
17 the record is being transmitted for inclusion in each appropriate
18 database of the National Instant Criminal Background Check
19 System.

20 5. As used in this section, unless the context otherwise
21 requires:

22 (a) "Division facility" has the meaning ascribed to it in
23 NRS 433.094.

24 (b) "Forensic facility" means a secure facility of the Division of
25 Mental Health and Developmental Services of the Department of
26 Health and Human Services for offenders and defendants with
27 mental disorders. The term includes, without limitation, Lakes
28 Crossing Center.

29 (c) "National Instant Criminal Background Check System" has
30 the meaning ascribed to it in NRS 179A.062.

31 (d) "Person with mental illness" has the meaning ascribed to it
32 in NRS 178.3986.

33 **Sec. 4.** NRS 178.425 is hereby amended to read as follows:

34 178.425 1. If the court finds the defendant incompetent, and
35 dangerous to himself or herself or to society and that commitment is
36 required for a determination of the defendant's ability to receive
37 treatment to competency and to attain competence, the judge shall
38 order the sheriff to convey the defendant forthwith, together with a
39 copy of the complaint, the commitment and the physicians'
40 certificate, if any, into the custody of the Administrator or the
41 Administrator's designee for detention and treatment at a division
42 facility that is secure. The order may include the involuntary
43 administration of medication if appropriate for treatment to
44 competency.



1 2. The defendant must be held in such custody until a court
2 orders the defendant's release or until the defendant is returned for
3 trial or judgment as provided in NRS 178.450, 178.455 and
4 178.460.

5 3. If the court finds the defendant incompetent but not
6 dangerous to himself or herself or to society, and finds that
7 commitment is not required for a determination of the defendant's
8 ability to receive treatment to competency and to attain competence,
9 the judge shall order the defendant to report to the Administrator or
10 the Administrator's designee as an outpatient for treatment, if it
11 might be beneficial, and for a determination of the defendant's
12 ability to receive treatment to competency and to attain competence.
13 The court may require the defendant to give bail for any periodic
14 appearances before the Administrator or the Administrator's
15 designee.

16 4. Except as otherwise provided in subsection 5, proceedings
17 against the defendant must be suspended until the Administrator or
18 the Administrator's designee or, if the defendant is charged
19 with a misdemeanor, the judge finds the defendant capable of
20 standing trial or opposing pronouncement of judgment as provided
21 in NRS 178.400.

22 5. Whenever the defendant has been found incompetent, with
23 no substantial probability of attaining competency in the foreseeable
24 future, and released from custody or from obligations as an
25 outpatient pursuant to paragraph (d) of subsection 4 of NRS
26 178.460, the proceedings against the defendant which were
27 suspended must be dismissed. No new charge arising out of the
28 same circumstances may be brought after a period, equal to the
29 maximum time allowed by law for commencing a criminal action
30 for the crime with which the defendant was charged, has lapsed
31 since the date of the alleged offense.

32 6. If a defendant is found incompetent pursuant to this section,
33 the court shall cause, *within 5 business days after the finding*, on a
34 form prescribed by the Department of Public Safety, a record of that
35 finding to be transmitted to the Central Repository for Nevada
36 Records of Criminal History, along with a statement indicating that
37 the record is being transmitted for inclusion in each appropriate
38 database of the National Instant Criminal Background Check
39 System.

40 7. As used in this section, "National Instant Criminal
41 Background Check System" has the meaning ascribed to it in
42 NRS 179A.062.



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1 **Sec. 5.** Chapter 179A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***“National Crime Information Center” means the computerized***
4 ***information system created and maintained by the Federal Bureau***
5 ***of Investigation pursuant to 28 U.S.C. § 534.***

6 **Sec. 6.** NRS 179A.010 is hereby amended to read as follows:

7 179A.010 As used in this chapter, unless the context otherwise
8 requires, the words and terms defined in NRS 179A.020 to
9 179A.073, inclusive, ***and section 5 of this act*** have the meanings
10 ascribed to them in those sections.

11 **Sec. 7.** NRS 179A.075 is hereby amended to read as follows:

12 179A.075 1. The Central Repository for Nevada Records of
13 Criminal History is hereby created within the Records and
14 Technology Division of the Department.

15 2. Each agency of criminal justice and any other agency
16 dealing with crime or delinquency of children shall:

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

19 (b) Submit the information collected to the Central Repository
20 in the manner approved by the Director of the Department.

21 3. Each agency of criminal justice shall submit the information
22 relating to records of criminal history that it creates, ~~for~~ issues ~~to~~
23 ***or collects***, and any information in its possession relating to the
24 genetic markers of a biological specimen of a person who is
25 convicted of an offense listed in subsection 4 of NRS 176.0913, to
26 the Division. The information must be submitted to the Division:

27 (a) Through an electronic network;

28 (b) On a medium of magnetic storage; or

29 (c) In the manner prescribed by the Director of the Department,

30 ↳ within ~~the period prescribed by the Director of the Department.~~
31 ***60 days after the date of the disposition of the case.*** If an agency

32 has submitted a record regarding the arrest of a person who is later
33 determined by the agency not to be the person who committed the
34 particular crime, the agency shall, immediately upon making that
35 determination, so notify the Division. The Division shall delete all
36 references in the Central Repository relating to that particular arrest.

37 4. The Division shall, in the manner prescribed by the Director
38 of the Department:

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

41 (1) Records of criminal history; and

42 (2) The genetic markers of a biological specimen of a person
43 who is convicted of an offense listed in subsection 4 of
44 NRS 176.0913.



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

4 (c) Upon request, provide the information that is contained in
5 the Central Repository to the State Disaster Identification Team of
6 the Division of Emergency Management of the Department.

7 5. The Division may:

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

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

13 (c) Request of and receive from the Federal Bureau of
14 Investigation information on the background and personal history of
15 any person whose record of fingerprints the Central Repository
16 submits to the Federal Bureau of Investigation and:

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

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

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

27 (4) For whom such information is required to be obtained
28 pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183
29 and 449.123; or

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

34 ➔ To request and receive information from the Federal Bureau of
35 Investigation concerning a person pursuant to this subsection, the
36 Central Repository must receive the person's complete set of
37 fingerprints from the agency or political subdivision and submit the
38 fingerprints to the Federal Bureau of Investigation for its report.

39 6. The Central Repository shall:

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

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



1 (c) Disseminate to federal agencies engaged in the collection of
2 statistical data relating to crime information which is contained in
3 the Central Repository.

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

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

7 (2) Has applied to a county school district, charter school or
8 private school for employment; or

9 (3) Is employed by a county school district, charter school or
10 private school,

11 ↪ and notify the superintendent of each county school district, the
12 governing body of each charter school and the Superintendent of
13 Public Instruction, or the administrator of each private school, as
14 appropriate, if the investigation of the Central Repository indicates
15 that the person has been convicted of a violation of NRS 200.508,
16 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or
17 any offense involving moral turpitude.

18 (e) Upon discovery, notify the superintendent of each county
19 school district, the governing body of each charter school or the
20 administrator of each private school, as appropriate, by providing
21 the superintendent, governing body or administrator with a list of all
22 persons:

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

24 (2) Employed by a county school district, charter school or
25 private school whose fingerprints were sent previously to the
26 Central Repository for investigation,

27 ↪ who the Central Repository's records indicate have been
28 convicted of a violation of NRS 200.508, 201.230, 453.3385,
29 453.339 or 453.3395, or convicted of a felony or any offense
30 involving moral turpitude since the Central Repository's initial
31 investigation. The superintendent of each county school district, the
32 governing body of a charter school or the administrator of each
33 private school, as applicable, shall determine whether further
34 investigation or action by the district, charter school or private
35 school, as applicable, is appropriate.

36 (f) Investigate the criminal history of each person who submits
37 fingerprints or has fingerprints submitted pursuant to NRS 62B.270,
38 424.031, 427A.735, 432A.170, 433B.183, 449.122 or 449.123.

39 (g) On or before July 1 of each year, prepare and present to the
40 Governor a printed annual report containing the statistical data
41 relating to crime received during the preceding calendar year.
42 Additional reports may be presented to the Governor throughout the
43 year regarding specific areas of crime if they are approved by the
44 Director of the Department.



1 (h) On or before July 1 of each year, prepare and submit to the
2 Director of the Legislative Counsel Bureau for submission to the
3 Legislature, or to the Legislative Commission when the Legislature
4 is not in regular session, a report containing statistical data about
5 domestic violence in this State.

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

11 7. The Central Repository may:

12 (a) In the manner prescribed by the Director of the Department,
13 disseminate compilations of statistical data and publish statistical
14 reports relating to crime or the delinquency of children.

15 (b) Charge a reasonable fee for any publication or special report
16 it distributes relating to data collected pursuant to this section. The
17 Central Repository may not collect such a fee from an agency of
18 criminal justice, any other agency dealing with crime or the
19 delinquency of children which is required to submit information
20 pursuant to subsection 2 or the State Disaster Identification Team of
21 the Division of Emergency Management of the Department. All
22 money collected pursuant to this paragraph must be used to pay for
23 the cost of operating the Central Repository.

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

28 8. As used in this section:

29 (a) "Personal identifying information" means any information
30 designed, commonly used or capable of being used, alone or in
31 conjunction with any other information, to identify a person,
32 including, without limitation:

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

36 (2) The fingerprints, voiceprint, retina image and iris image
37 of a person.

38 (b) "Private school" has the meaning ascribed to it in
39 NRS 394.103.

40 **Sec. 8.** NRS 179A.163 is hereby amended to read as follows:

41 179A.163 1. Upon receiving a record transmitted pursuant to
42 NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310,
43 the Central Repository ~~shall~~ :



1 ***(a) Shall*** take reasonable steps to ensure that the information
2 reported in the record is included in each appropriate database of the
3 National Instant Criminal Background Check System **H**; **and**

4 ***(b) May take reasonable steps to ensure that the information***
5 ***reported in the record is included in each appropriate database of***
6 ***the National Crime Information Center.***

7 2. Except as otherwise provided in subsection 3, if the Central
8 Repository receives a record described in subsection 1, the person
9 who is the subject of the record may petition the court for an order
10 declaring that:

11 (a) The basis for the adjudication reported in the record no
12 longer exists;

13 (b) The adjudication reported in the record is deemed not to
14 have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and
15 NRS 202.360; and

16 (c) The information reported in the record must be removed
17 from the National Instant Criminal Background Check System **H**
18 ***and the National Crime Information Center, if applicable.***

19 3. To the extent authorized by federal law, if the record
20 concerning the petitioner was transmitted to the Central Repository
21 pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or
22 433A.310, the petitioner may not file a petition pursuant to
23 subsection 2 until 3 years after the date of the order transmitting the
24 record to the Central Repository.

25 4. A petition filed pursuant to subsection 2 must be:

26 (a) Filed in the court which made the adjudication or finding
27 pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or
28 433A.310; and

29 (b) Served upon the district attorney for the county in which the
30 court described in paragraph (a) is located.

31 5. The Nevada Rules of Civil Procedure govern all proceedings
32 concerning a petition filed pursuant to subsection 2.

33 6. The court shall grant the petition and issue the order
34 described in subsection 2 if the court finds that the petitioner has
35 established that:

36 (a) The basis for the adjudication or finding made pursuant to
37 NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310
38 concerning the petitioner no longer exists;

39 (b) The petitioner's record and reputation indicate that the
40 petitioner is not likely to act in a manner dangerous to public safety;
41 and

42 (c) Granting the relief requested by the petitioner pursuant to
43 subsection 2 is not contrary to the public interest.

44 7. Except as otherwise provided in this subsection, the
45 petitioner must establish the provisions of subsection 6 by a



1 preponderance of the evidence. If the adjudication or finding
2 concerning the petitioner was made pursuant to NRS 159.0593 or
3 433A.310, the petitioner must establish the provisions of subsection
4 6 by clear and convincing evidence.

5 8. The court, upon entering an order pursuant to this section,
6 shall cause, on a form prescribed by the Department of Public
7 Safety, a record of the order to be transmitted to the Central
8 Repository.

9 9. Within 5 business days after receiving a record of an order
10 transmitted pursuant to subsection 8, the Central Repository shall
11 take reasonable steps to ensure that information concerning the
12 adjudication or finding made pursuant to NRS 159.0593, 174.035,
13 175.533, 175.539, 178.425 or 433A.310 is removed from the
14 National Instant Criminal Background Check System **†† and the**
15 ***National Crime Information Center, if applicable.***

16 10. If the Central Repository fails to remove a record as
17 provided in subsection 9, the petitioner may bring an action to
18 compel the removal of the record. If the petitioner prevails in the
19 action, the court may award the petitioner reasonable attorney's fees
20 and costs incurred in bringing the action.

21 11. If a petition brought pursuant to subsection 2 is denied, the
22 person who is the subject of the record may petition for a rehearing
23 not sooner than 2 years after the date of the denial of the petition.

24 **Sec. 9.** NRS 179A.165 is hereby amended to read as follows:

25 179A.165 1. Any record described in NRS 179A.163 is
26 confidential and is not a public book or record within the meaning
27 of NRS 239.010. A person may not use the record for any purpose
28 other than for ***a purpose related to criminal justice, including,***
29 ***without limitation,*** inclusion in the appropriate database of the
30 National Instant Criminal Background Check System **†† and the**
31 ***National Crime Information Center, if applicable. The Central***
32 ***Repository may disclose the record to any agency of criminal***
33 ***justice.***

34 2. If a person or governmental entity is required to transmit,
35 report or take any other action concerning a record pursuant to NRS
36 159.0593, 174.035, 175.533, 175.539, 178.425, 179A.163 or
37 433A.310, no action for damages may be brought against the person
38 or governmental entity for:

39 (a) Transmitting or reporting the record or taking any other
40 required action concerning the record;

41 (b) Failing to transmit or report the record or failing to take any
42 other required action concerning the record;

43 (c) Delaying the transmission or reporting of the record or
44 delaying in taking any other required action concerning the record;

45 or



1 (d) Transmitting or reporting an inaccurate or incomplete
2 version of the record or taking any other required action concerning
3 an inaccurate or incomplete version of the record.

4 **Sec. 10.** NRS 179A.167 is hereby amended to read as follows:

5 179A.167 1. The Central Repository shall permit a person
6 who is or believes he or she may be the subject of information
7 relating to records of mental health held by the Central Repository
8 to inspect and correct any information contained in such records.

9 2. The Central Repository shall adopt regulations and make
10 available necessary forms to permit inspection, review and
11 correction of information relating to records of mental health by
12 those persons who are the subjects thereof. The regulations must
13 specify:

14 (a) The requirements for proper identification of the persons
15 seeking access to the records; and

16 (b) The reasonable charges or fees, if any, for inspecting
17 records.

18 3. The Director of the Department shall adopt regulations
19 governing:

20 (a) All challenges to the accuracy or sufficiency of information
21 or records of mental health by the person who is the subject of the
22 allegedly inaccurate or insufficient record;

23 (b) The correction of any information relating to records of
24 mental health found by the Director to be inaccurate, insufficient or
25 incomplete in any material respect;

26 (c) The dissemination of corrected information to those persons
27 or agencies which have previously received inaccurate or
28 incomplete information; and

29 (d) A reasonable time limit within which inaccurate or
30 insufficient information relating to records of mental health must be
31 corrected and the corrected information disseminated.

32 4. As used in this section, "information relating to records of
33 mental health" means information contained in a record:

34 (a) Transmitted to the Central Repository pursuant to NRS
35 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; or

36 (b) Transmitted to the National Instant Criminal Background
37 Check System *or the National Crime Information Center* pursuant
38 to NRS 179A.163.

39 **Sec. 11.** NRS 49.213 is hereby amended to read as follows:

40 49.213 There is no privilege pursuant to NRS 49.209 or
41 49.211:

42 1. For communications relevant to an issue in a proceeding to
43 hospitalize the patient for mental illness, if the psychologist in the
44 course of diagnosis or treatment has determined that the patient
45 requires hospitalization.



1 2. *For communications relevant to any determination made*
2 *pursuant to NRS 202.360.*

3 3. For communications relevant to an issue of the treatment of
4 the patient in any proceeding in which the treatment is an element of
5 a claim or defense.

6 ~~3-~~ 4. If disclosure is otherwise required by state or federal
7 law.

8 ~~4-~~ 5. For communications relevant to an issue in a
9 proceeding to determine the validity of a will of the patient.

10 ~~5-~~ 6. If there is an immediate threat that the patient will harm
11 himself or herself or other persons.

12 ~~6-~~ 7. For communications made in the course of a court-
13 ordered examination of the condition of a patient with respect to the
14 specific purpose of the examination unless the court orders
15 otherwise.

16 ~~7-~~ 8. For communications relevant to an issue in an
17 investigation or hearing conducted by the Board of Psychological
18 Examiners if the treatment of the patient is an element of that
19 investigation or hearing.

20 ~~8-~~ 9. For communications relevant to an issue in a
21 proceeding relating to the abuse or neglect of a person with a
22 disability or a person who is legally incompetent.

23 **Sec. 12.** NRS 49.245 is hereby amended to read as follows:

24 49.245 There is no privilege under NRS 49.225 or 49.235:

25 1. For communications relevant to an issue in proceedings to
26 hospitalize the patient for mental illness, if the doctor in the course
27 of diagnosis or treatment has determined that the patient is in need
28 of hospitalization.

29 2. *For communications relevant to any determination made*
30 *pursuant to NRS 202.360.*

31 3. As to communications made in the course of a court-ordered
32 examination of the condition of a patient with respect to the
33 particular purpose of the examination unless the court orders
34 otherwise.

35 ~~3-~~ 4. As to written medical or hospital records relevant to an
36 issue of the condition of the patient in any proceeding in which the
37 condition is an element of a claim or defense.

38 ~~4-~~ 5. In a prosecution or mandamus proceeding under chapter
39 441A of NRS.

40 ~~5-~~ 6. As to any information communicated to a physician in
41 an effort unlawfully to procure a dangerous drug or controlled
42 substance, or unlawfully to procure the administration of any such
43 drug or substance.

44 ~~6-~~ 7. As to any written medical or hospital records which are
45 furnished in accordance with the provisions of NRS 629.061.



1 ~~77~~ 8. As to records that are required by chapter 453 of NRS
2 to be maintained.

3 ~~87~~ 9. If the services of the physician are sought or obtained to
4 enable or aid a person to commit or plan to commit fraud or any
5 other unlawful act in violation of any provision of chapter 616A,
6 616B, 616C, 616D or 617 of NRS which the person knows or
7 reasonably should know is fraudulent or otherwise unlawful.

8 **Sec. 13.** NRS 159.0593 is hereby amended to read as follows:

9 159.0593 1. If the court orders a general guardian appointed
10 for a proposed ward, the court shall determine, by clear and
11 convincing evidence, whether the proposed ward is a person with a
12 mental defect who is prohibited from possessing a firearm pursuant
13 to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding
14 pursuant to this section that the proposed ward is a person with a
15 mental defect, the court shall include the finding in the order
16 appointing the guardian and cause , *within 5 business days after*
17 *issuing the order*, a record of the order to be transmitted to the
18 Central Repository for Nevada Records of Criminal History, along
19 with a statement indicating that the record is being transmitted for
20 inclusion in each appropriate database of the National Instant
21 Criminal Background Check System.

22 2. As used in this section:

23 (a) "National Instant Criminal Background Check System" has
24 the meaning ascribed to it in NRS 179A.062.

25 (b) "Person with a mental defect" means a person who, as a
26 result of marked subnormal intelligence, mental illness,
27 incompetence, condition or disease, is:

28 (1) A danger to himself or herself or others; or

29 (2) Lacks the capacity to contract or manage his or her own
30 affairs.

31 **Sec. 14.** NRS 202.254 is hereby amended to read as follows:

32 202.254 1. A private person who wishes to transfer a firearm
33 to another person may, before transferring the firearm, request that
34 the Central Repository for Nevada Records of Criminal History
35 perform a background check on the person who wishes to acquire
36 the firearm.

37 2. The person who requests the information pursuant to
38 subsection 1 shall provide the Central Repository with identifying
39 information about the person who wishes to acquire the firearm.

40 3. Upon receiving a request from a private person pursuant to
41 subsection 1 and the identifying information required pursuant to
42 subsection 2, the Central Repository shall within 5 business days
43 after receiving the request:

44 (a) Perform a background check on the person who wishes to
45 acquire the firearm; and



1 (b) Notify the person who requests the information whether the
2 information available to the Central Repository indicates that the
3 receipt of a firearm by the person who wishes to acquire the firearm
4 would violate a state or federal law.

5 4. If the person who requests the information does not receive
6 notification from the Central Repository regarding the request
7 within 5 business days after making the request, the person may
8 presume that the receipt of a firearm by the person who wishes to
9 acquire the firearm would not violate a state or federal law.

10 5. The Central Repository may *not* charge a ~~reasonable~~ fee
11 for performing a background check and notifying a person of the
12 results of the background check pursuant to this section.

13 6. ~~The failure of a person to request the Central Repository to~~
14 ~~perform a background check pursuant to this section before~~
15 ~~transferring a firearm to another person does not give rise to any~~
16 ~~civil cause of action.~~ *A private person who transfers a firearm to*
17 *another person is immune from civil and criminal liability for*
18 *failing to request a background check pursuant to this section or*
19 *for any act or omission relating to a background check requested*
20 *pursuant to this section if the act or omission was taken in good*
21 *faith and without malicious intent.*

22 7. *The Director of the Department of Public Safety may*
23 *request an allocation from the Contingency Account pursuant to*
24 *NRS 353.266, 353.268 and 353.269 to cover the costs incurred by*
25 *the Department to carry out the provisions of subsection 5 of this*
26 *section.*

27 **Sec. 15.** NRS 202.360 is hereby amended to read as follows:

28 202.360 1. A person shall not own or have in his or her
29 possession or under his or her custody or control any firearm if the
30 person:

31 (a) Has been convicted of a felony in this or any other state, or
32 in any political subdivision thereof, or of a felony in violation of the
33 laws of the United States of America, unless the person has received
34 a pardon and the pardon does not restrict his or her right to bear
35 arms;

36 (b) Is a fugitive from justice; ~~or~~

37 (c) Is an unlawful user of, or addicted to, any controlled
38 substance ~~or~~; *or*

39 (d) *Is otherwise prohibited by federal law from having a*
40 *firearm in his or her possession or under his or her custody or*
41 *control.*

42 ➤ A person who violates the provisions of this subsection is guilty
43 of a category B felony and shall be punished by imprisonment in the
44 state prison for a minimum term of not less than 1 year and a



1 maximum term of not more than 6 years, and may be further
2 punished by a fine of not more than \$5,000.

3 2. A person shall not own or have in his or her possession or
4 under his or her custody or control any firearm if the person:

5 (a) Has been adjudicated as mentally ill or has been committed
6 to any mental health facility ~~[-or-]~~ *by a court of this State, any other*
7 *state or the United States;*

8 (b) *Has entered a plea of guilty but mentally ill in a court of*
9 *this State, any other state or the United States;*

10 (c) *Has been found guilty but mentally ill in a court of this*
11 *State, any other state or the United States;*

12 (d) *Has been acquitted by reason of insanity in a court of this*
13 *State, any other state or the United States; or*

14 (e) Is illegally or unlawfully in the United States.

15 ➔ A person who violates the provisions of this subsection is
16 guilty of a category D felony and shall be punished as provided in
17 NRS 193.130.

18 3. As used in this section:

19 (a) "Controlled substance" has the meaning ascribed to it in 21
20 U.S.C. § 802(6).

21 (b) "Firearm" includes any firearm that is loaded or unloaded
22 and operable or inoperable.

23 **Sec. 16.** NRS 202.362 is hereby amended to read as follows:

24 202.362 1. Except as otherwise provided in subsection 3, a
25 person within this State shall not sell, *transfer* or otherwise dispose
26 of any firearm or ammunition to another person *or purchase a*
27 *firearm on behalf of or for another person with the intent to*
28 *transfer the firearm to that person* if he or she has ~~actual~~
29 ~~knowledge~~ *reasonable cause to believe* that the other person:

30 (a) Is under indictment for, or has been convicted of, a felony in
31 this or any other state, or in any political subdivision thereof, or of a
32 felony in violation of the laws of the United States of America,
33 unless the other person has received a pardon and the pardon does
34 not restrict his or her right to bear arms;

35 (b) Is ~~a fugitive from justice;~~

36 ~~—(c) Has been adjudicated as mentally ill or has been committed~~
37 ~~to any mental health facility; or~~

38 ~~—(d) Is illegally or unlawfully in the United States.]~~ *prohibited*
39 *from possessing a firearm pursuant to NRS 202.360; or*

40 (c) *Is a known member of a criminal gang as defined in*
41 *NRS 193.168.*

42 2. A person who violates the provisions of subsection 1 is
43 guilty of a category B felony and shall be punished by imprisonment
44 in the state prison for a minimum term of not less than 1 year and a



1 maximum term of not more than 10 years, and may be further
2 punished by a fine of not more than \$10,000.

3 3. This section does not apply to a person who sells or disposes
4 of any firearm or ammunition to:

5 (a) A licensed importer, licensed manufacturer, licensed dealer
6 or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not
7 precluded from dealing in firearms or ammunition; or

8 (b) A person who has been granted relief from the disabilities
9 imposed by federal laws pursuant to 18 U.S.C. § 925(c) or
10 NRS 179A.163.

11 *4. For the purposes of this section, a person has "reasonable*
12 *cause to believe" if, in light of all the surrounding facts and*
13 *circumstances which are known or which reasonably should be*
14 *known to the person at the time, a reasonable person would*
15 *believe, under those facts and circumstances, that an act,*
16 *transaction, event, situation or condition exists, is occurring or*
17 *has occurred.*

18 **Sec. 17.** NRS 433A.310 is hereby amended to read as follows:

19 433A.310 1. Except as otherwise provided in NRS
20 432B.6076 and 432B.6077, if the district court finds, after
21 proceedings for the involuntary court-ordered admission of a person to
22 a public or private mental health facility:

23 (a) That there is not clear and convincing evidence that the
24 person with respect to whom the hearing was held has a mental
25 illness or exhibits observable behavior such that the person is likely
26 to harm himself or herself or others if allowed his or her liberty, the
27 court shall enter its finding to that effect and the person must not be
28 involuntarily detained in such a facility.

29 (b) That there is clear and convincing evidence that the person
30 with respect to whom the hearing was held has a mental illness and,
31 because of that illness, is likely to harm himself or herself or others
32 if allowed his or her liberty, the court may order the involuntary
33 admission of the person for the most appropriate course of
34 treatment. The order of the court must be interlocutory and must not
35 become final if, within 30 days after the involuntary admission, the
36 person is unconditionally released pursuant to NRS 433A.390.

37 2. Except as otherwise provided in NRS 432B.608, an
38 involuntary admission pursuant to paragraph (b) of subsection 1
39 automatically expires at the end of 6 months if not terminated
40 previously by the medical director of the public or private mental
41 health facility as provided for in subsection 2 of NRS 433A.390.
42 Except as otherwise provided in NRS 432B.608, at the end of the
43 court-ordered period of treatment, the Division or any mental health
44 facility that is not operated by the Division may petition to renew
45 the detention of the person for additional periods not to exceed 6



1 months each. For each renewal, the petition must set forth to the
2 court specific reasons why further treatment would be in the
3 person's own best interests.

4 3. Before issuing an order for involuntary admission or a
5 renewal thereof, the court shall explore other alternative courses of
6 treatment within the least restrictive appropriate environment as
7 suggested by the evaluation team who evaluated the person, or other
8 persons professionally qualified in the field of psychiatric mental
9 health, which the court believes may be in the best interests of the
10 person.

11 4. If the court issues an order involuntarily admitting a person
12 to a public or private mental health facility pursuant to this section,
13 the court shall, notwithstanding the provisions of NRS 433A.715,
14 cause, *within 5 business days after issuing the order*, on a form
15 prescribed by the Department of Public Safety, a record of ~~such~~
16 *the* order to be transmitted to the Central Repository for Nevada
17 Records of Criminal History, along with a statement indicating that
18 the record is being transmitted for inclusion in each appropriate
19 database of the National Instant Criminal Background Check
20 System ~~and the National Crime Information Center~~.

21 5. As used in this section ~~it~~ :

22 (a) *“National Crime Information Center” has the meaning*
23 *ascribed to it in section 5 of this act.*

24 (b) *“National Instant Criminal Background Check System” has*
25 *the meaning ascribed to it in NRS 179A.062.*

26 **Sec. 18.** NRS 436.123 is hereby amended to read as follows:

27 436.123 The Division is designated as the official state agency
28 responsible for developing and administering preventive and
29 outpatient mental health services, subject to administrative
30 supervision by the Director of the Department. It shall function in
31 the following areas:

32 1. Assisting and consulting with local health authorities, *local*
33 *governments and all law enforcement agencies in this State* in
34 providing community mental health services, which services may
35 include prevention, rehabilitation, case finding, diagnosis and
36 treatment of persons with mental illness, and consultation and
37 education for groups and individuals regarding mental health.

38 2. Coordinating mental health functions with other state
39 agencies.

40 3. Participating in and promoting the development of facilities
41 for training personnel necessary for implementing such services.

42 4. Collecting and disseminating information pertaining to
43 mental health.

44 5. Performing such other acts as are necessary to promote
45 mental health in the State.



1 **Sec. 19.** Chapter 629 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *If a patient communicates to a mental health professional*
4 *an explicit threat of imminent serious physical harm or death to a*
5 *clearly identified or identifiable person and, in the judgment of the*
6 *mental health professional, the patient has the intent and ability to*
7 *carry out the threat, the mental health professional shall make a*
8 *reasonable effort to communicate the threat in a timely manner to:*

9 (a) *The person who is the subject of the threat;*

10 (b) *The law enforcement agency with the closest physical*
11 *location to the residence of the person; and*

12 (c) *If the person is a minor, the parent or guardian of the*
13 *person.*

14 2. *A mental health professional who exercises reasonable*
15 *care in determining that he or she:*

16 (a) *Has a duty to communicate a threat pursuant to subsection*
17 *1 is not subject to civil or criminal liability or disciplinary action*
18 *by a professional licensing board for disclosing confidential or*
19 *privileged information.*

20 (b) *Does not have a duty to communicate a threat pursuant to*
21 *subsection 1 is not subject to civil or criminal liability or*
22 *disciplinary action by a professional licensing board for any*
23 *damages caused by the actions of a patient.*

24 3. *The provisions of this section do not:*

25 (a) *Limit or affect the duty of the mental health professional to*
26 *report child abuse or neglect pursuant to NRS 432B.220; or*

27 (b) *Modify any duty of a mental health professional to take*
28 *precautions to prevent harm by a patient:*

29 (1) *In the custody of a hospital or other facility where the*
30 *mental health professional is employed; or*

31 (2) *Who is being discharged from such a facility.*

32 4. *As used in this section, "mental health professional"*
33 *includes:*

34 (a) *A psychiatrist licensed to practice medicine in this State*
35 *pursuant to chapter 630 or 633 of NRS;*

36 (b) *A psychologist who is licensed to practice psychology*
37 *pursuant to chapter 641 of NRS;*

38 (c) *A social worker who:*

39 (1) *Holds a master's degree in social work or a related*
40 *field;*

41 (2) *Is licensed as a clinical social worker pursuant to*
42 *chapter 641B of NRS; and*

43 (3) *Is employed by the Division of Mental Health and*
44 *Developmental Services of the Department of Health and Human*
45 *Services;*



- 1 *(d) A registered nurse who:*
2 *(1) Is licensed to practice professional nursing pursuant to*
3 *chapter 632 of NRS; and*
4 *(2) Holds a master's degree in psychiatric nursing or a*
5 *related field;*
6 *(e) A marriage and family therapist licensed pursuant to*
7 *chapter 641A of NRS; and*
8 *(f) A clinical professional counselor licensed pursuant to*
9 *chapter 641A of NRS.*

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