

SENATE BILL NO. 35—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Health and Human Services

SUMMARY—Establishes the crimes of low-level trafficking in fentanyl, mid-level trafficking in fentanyl and high-level trafficking in fentanyl. (BDR 40-423)

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

~

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

AN ACT relating to controlled substances; establishing the crimes of low-level trafficking in fentanyl, mid-level trafficking in fentanyl and high-level trafficking in fentanyl; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a person who knowingly or intentionally sells,
2 manufactures, delivers or brings into this State or is knowingly or intentionally in
3 actual or constructive possession of a schedule I controlled substance, other than
4 marijuana, a schedule II controlled substance or certain other controlled substances
5 is guilty of: (1) low-level trafficking if the quantity of the controlled substance is
6 100 grams or more but less than 400 grams; and (2) high-level trafficking if the
7 quantity of the controlled substance is 400 grams or more. A person who commits
8 the crime of: (1) low-level trafficking is guilty of a category B felony and subject to
9 certain prescribed penalties; and (2) high-level trafficking is guilty of a category A
10 felony and subject to certain prescribed penalties. (NRS 453.3385)

11 Existing regulations of the State Board of Pharmacy include fentanyl in the list
12 of controlled substances in schedule II. (NAC 453.520) **Section 8** of this bill
13 excludes fentanyl from the controlled substances in schedule II for which the
14 provisions governing the crimes of low-level trafficking and high-level trafficking
15 apply. **Section 1** of this bill instead establishes the crimes of low-level trafficking in
16 fentanyl, mid-level trafficking in fentanyl and high-level trafficking in fentanyl.
17 Under **section 1**, a person who knowingly or intentionally sells, manufactures,
18 delivers or brings into this State or is knowingly or intentionally in actual or
19 constructive possession of fentanyl is guilty of: (1) low-level trafficking in fentanyl



20 if the quantity of fentanyl involved is 4 grams or more but less than 14 grams; (2)
21 mid-level trafficking in fentanyl if the quantity of fentanyl involved is 14 grams or
22 more but less than 28 grams; and (3) high-level trafficking in fentanyl if the
23 quantity of fentanyl involved is 28 grams or more. Under **section 1**, a person who
24 commits the crime of: (1) low-level or mid-level trafficking in fentanyl is guilty of
25 a category B felony and subject to certain prescribed penalties; and (2) high-level
26 trafficking in fentanyl is guilty of a category A felony and subject to certain
27 prescribed penalties.

28 **Sections 2, 5 and 6** of this bill provide that a person found guilty of low-level,
29 mid-level or high-level trafficking in fentanyl is subject to the greater penalty for
30 that crime if the acts constituting the crime could subject the person to a lesser
31 punishment under another statute.

32 **Sections 3, 4, 7 and 9-13** of this bill add references to **section 1** so that the
33 crimes of low-level, mid-level and high-level trafficking in fentanyl are treated the
34 same as the crimes of low-level and high-level trafficking involving schedule I
35 controlled substances, other than marijuana, and other schedule II controlled
36 substances for certain purposes.

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

1 **Section 1.** Chapter 453 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *Except as otherwise authorized by the provisions of NRS*
4 *453.011 to 453.552, inclusive, a person who knowingly or*
5 *intentionally sells, manufactures, delivers or brings into this State*
6 *or who is knowingly or intentionally in actual or constructive*
7 *possession of fentanyl, unless a greater penalty is provided*
8 *pursuant to NRS 453.322, if the quantity involved:*

9 *1. Is 4 grams or more, but less than 14 grams, is guilty of*
10 *low-level trafficking in fentanyl and shall be punished for a*
11 *category B felony by imprisonment in the state prison for a*
12 *minimum term of not less than 1 year and a maximum term of not*
13 *more than 6 years and by a fine of not more than \$50,000.*

14 *2. Is 14 grams or more, but less than 28 grams, is guilty of*
15 *mid-level trafficking in fentanyl and shall be punished for a*
16 *category B felony by imprisonment in the state prison for a*
17 *minimum term of not less than 2 years and a maximum term of*
18 *not more than 15 years and by a fine of not more than \$100,000.*

19 *3. Is 28 grams or more, is guilty of high-level trafficking in*
20 *fentanyl and shall be punished for a category A felony by*
21 *imprisonment in the state prison:*

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

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

26 *↪ and by a fine of not more than \$500,000.*



1 **Sec. 2.** NRS 453.322 is hereby amended to read as follows:
2 453.322 1. Except as authorized by the provisions of NRS
3 453.011 to 453.552, inclusive, it is unlawful for a person to
4 knowingly or intentionally:

5 (a) Manufacture or compound a controlled substance other than
6 marijuana.

7 (b) Possess, with the intent to manufacture or compound a
8 controlled substance other than marijuana, or sell, exchange, barter,
9 supply, prescribe, dispense or give away, with the intent that the
10 chemical be used to manufacture or compound a controlled
11 substance other than marijuana:

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

13 (2) Any other chemical which is proven by expert testimony
14 to be commonly used in manufacturing or compounding a controlled
15 substance other than marijuana. The district attorney may present
16 expert testimony to provide a prima facie case that any chemical,
17 whether or not it is a chemical identified in subsection 5, is
18 commonly used in manufacturing or compounding such a controlled
19 substance.

20 ↪ The provisions of this paragraph do not apply to a person who,
21 without the intent to commit an unlawful act, possesses any
22 chemical at a laboratory that is licensed to store the chemical.

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

25 2. Unless a greater penalty is provided in subsection 3 or NRS
26 453.3385, *or section 1 of this act*, a person who violates any
27 provision of subsection 1 is guilty of a category B felony and shall
28 be punished by imprisonment in the state prison for a minimum
29 term of not less than 3 years and a maximum term of not more than
30 15 years, and may be further punished by a fine of not more than
31 \$100,000.

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

40 4. The court shall not grant probation to a person convicted
41 pursuant to this section.

42 5. The following chemicals are identified for the purposes of
43 subsection 1:

44 (a) Acetic anhydride.

45 (b) Acetone.



- 1 (c) N-Acetylanthranilic acid, its esters and its salts.
- 2 (d) Anthranilic acid, its esters and its salts.
- 3 (e) Benzaldehyde, its salts, isomers and salts of isomers.
- 4 (f) Benzyl chloride.
- 5 (g) Benzyl cyanide.
- 6 (h) 1,4-Butanediol.
- 7 (i) 2-Butanone (or methyl ethyl ketone or MEK).
- 8 (j) Ephedrine, its salts, isomers and salts of isomers.
- 9 (k) Ergonovine and its salts.
- 10 (l) Ergotamine and its salts.
- 11 (m) Ethylamine, its salts, isomers and salts of isomers.
- 12 (n) Ethyl ether.
- 13 (o) Gamma butyrolactone.
- 14 (p) Hydriodic acid, its salts, isomers and salts of isomers.
- 15 (q) Hydrochloric gas.
- 16 (r) Iodine.
- 17 (s) Isosafrole, its salts, isomers and salts of isomers.
- 18 (t) Lithium metal.
- 19 (u) Methylamine, its salts, isomers and salts of isomers.
- 20 (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- 21 (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- 22 (x) Methyl isobutyl ketone (MIBK).
- 23 (y) N-Methylpseudoephedrine, its salts, isomers and salts of
- 24 isomers.
- 25 (z) Nitroethane, its salts, isomers and salts of isomers.
- 26 (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- 27 (bb) Phenylacetic acid, its esters and its salts.
- 28 (cc) Phenylpropanolamine, its salts, isomers and salts of
- 29 isomers.
- 30 (dd) Piperidine and its salts.
- 31 (ee) Piperonal, its salts, isomers and salts of isomers.
- 32 (ff) Potassium permanganate.
- 33 (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- 34 (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- 35 (ii) Red phosphorous.
- 36 (jj) Safrole, its salts, isomers and salts of isomers.
- 37 (kk) Sodium metal.
- 38 (ll) Sulfuric acid.
- 39 (mm) Toluene.

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

41 453.333 If the death of a person is proximately caused by a
42 controlled substance which was sold, given, traded or otherwise
43 made available to him or her by another person in violation of this
44 chapter, the person who sold, gave or traded or otherwise made the
45 substance available to him or her is guilty of murder. If convicted of



1 murder in the second degree, the person is guilty of a category A
2 felony and shall be punished as provided in subsection 5 of NRS
3 200.030. If convicted of murder in the first degree, the person is
4 guilty of a category A felony and shall be punished as provided in
5 subsection 4 of NRS 200.030, except that the punishment of death
6 may be imposed only if the requirements of paragraph (a) of
7 subsection 4 of that section have been met and if the defendant is or
8 has previously been convicted of violating NRS 453.3385 or
9 453.339 *or section 1 of this act* or a law of any other jurisdiction
10 which prohibits the same conduct.

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

12 453.3353 1. Unless a greater penalty is provided by law, and
13 except as otherwise provided in this section and NRS 193.169, if:

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

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

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

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

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

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

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

39 (1) For life without the possibility of parole;

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

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

44 3. Subsection 1 does not create a separate offense but provides
45 an additional penalty for the primary offense, the imposition of



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

5 4. As used in this section:

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

7 (b) "Premises" means:

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

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

15 ➔ whether located aboveground or underground and whether
16 inhabited or not.

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

18 453.336 1. Except as otherwise provided in subsection 6, a
19 person shall not knowingly or intentionally possess a controlled
20 substance, unless the substance was obtained directly from, or
21 pursuant to, a prescription or order of a physician, physician
22 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
23 podiatric physician, optometrist, advanced practice registered nurse
24 or veterinarian while acting in the course of his or her professional
25 practice, or except as otherwise authorized by the provisions of NRS
26 453.005 to 453.552, inclusive.

27 2. Except as otherwise provided in subsections 3, 4 and 5 and
28 in NRS 453.3363, and unless a greater penalty is provided in NRS
29 212.160, 453.3385 or 453.339, *or section 1 of this act*, a person who
30 violates this section:

31 (a) For a first or second offense, if the controlled substance is
32 listed in schedule I or II and the quantity possessed is less than 14
33 grams, or if the controlled substance is listed in schedule III, IV or V
34 and the quantity possessed is less than 28 grams, is guilty of
35 possession of a controlled substance and shall be punished for a
36 category E felony as provided in NRS 193.130. In accordance with
37 NRS 176.211, the court shall defer judgment upon the consent of the
38 person.

39 (b) For a third or subsequent offense, if the controlled substance
40 is listed in schedule I or II, and the quantity possessed is less than 14
41 grams, or if the controlled substance is listed in schedule III, IV or V
42 and the quantity possessed is less than 28 grams, or if the offender
43 has previously been convicted two or more times in the aggregate of
44 any violation of the law of the United States or of any state, territory
45 or district relating to a controlled substance, is guilty of possession



1 of a controlled substance and shall be punished for a category D
2 felony as provided in NRS 193.130, and may be further punished by
3 a fine of not more than \$20,000.

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

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

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

24 3. Unless a greater penalty is provided in NRS 212.160,
25 453.337 or 453.3385, a person who is convicted of the possession of
26 flunitrazepam or gamma-hydroxybutyrate, or any substance for
27 which flunitrazepam or gamma-hydroxybutyrate is an immediate
28 precursor, is guilty of a category B felony and shall be punished by
29 imprisonment in the state prison for a minimum term of not less
30 than 1 year and a maximum term of not more than 6 years.

31 4. Unless a greater penalty is provided pursuant to NRS
32 212.160, a person who is convicted of the possession of 1 ounce or
33 less of marijuana is guilty of a misdemeanor and shall be punished
34 by:

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

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

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

41 ➤ or any combination thereof.

42 5. Unless a greater penalty is provided pursuant to NRS
43 212.160, a person who is convicted of the possession of more than 1
44 ounce, but less than 50 pounds, of marijuana or more than one-
45 eighth of an ounce, but less than one pound, of concentrated



1 cannabis is guilty of a category E felony and shall be punished as
2 provided in NRS 193.130.

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

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

9 8. If a person fulfills the terms and conditions imposed for a
10 violation of subsection 4, the court shall, without a hearing, order
11 sealed all documents, papers and exhibits in that person's record,
12 minute book entries and entries on dockets, and other documents
13 relating to the case in the custody of such other agencies and
14 officers as are named in the court's order. The court shall cause a
15 copy of the order to be sent to each agency or officer named in the
16 order. Each such agency or officer shall notify the court in writing
17 of its compliance with the order.

18 9. As used in this section:

19 (a) "Controlled substance" includes flunitrazepam, gamma-
20 hydroxybutyrate and each substance for which flunitrazepam or
21 gamma-hydroxybutyrate is an immediate precursor.

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

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

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

26 453.337 1. Except as otherwise authorized by the provisions
27 of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to
28 possess for the purpose of sale flunitrazepam, gamma-
29 hydroxybutyrate, any substance for which flunitrazepam or gamma-
30 hydroxybutyrate is an immediate precursor or any controlled
31 substance classified in schedule I or II.

32 2. Unless a greater penalty is provided in NRS 453.3385 or
33 453.339, *or section 1 of this act*, a person who violates this section
34 shall be punished:

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

37 (b) For a second offense, or if, in the case of a first conviction of
38 violating this section, the offender has previously been convicted of
39 a felony under the Uniform Controlled Substances Act or of an
40 offense under the laws of the United States or any state, territory or
41 district which, if committed in this State, would amount to a felony
42 under the Uniform Controlled Substances Act, for a category C
43 felony as provided in NRS 193.130.

44 (c) For a third or subsequent offense, or if the offender has
45 previously been convicted two or more times of a felony under the



1 Uniform Controlled Substances Act or of any offense under the laws
2 of the United States or any state, territory or district which, if
3 committed in this State, would amount to a felony under the
4 Uniform Controlled Substances Act, for a category B felony by
5 imprisonment in the state prison for a minimum term of not less
6 than 3 years and a maximum term of not more than 15 years, and
7 may be further punished by a fine of not more than \$20,000 for each
8 offense.

9 3. Except as otherwise provided in this subsection, unless
10 mitigating circumstances exist that warrant the granting of
11 probation, the court shall not grant probation to or suspend the
12 sentence of a person convicted of violating this section and
13 punishable pursuant to paragraph (b) or (c) of subsection 2. The
14 court shall not grant probation to or suspend the sentence of a
15 person convicted of violating this section, even if mitigating
16 circumstances exist that would otherwise warrant the granting of
17 probation, if the person violated this section by possessing
18 flunitrazepam, gamma-hydroxybutyrate or any substance for which
19 flunitrazepam or gamma-hydroxybutyrate is an immediate
20 precursor.

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

22 453.3383 For the purposes of NRS 453.3385 and 453.339, *and*
23 *section 1 of this act*, the weight of the controlled substance as
24 represented by the person selling or delivering it is determinative if
25 the weight as represented is greater than the actual weight of the
26 controlled substance.

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

28 453.3385 1. Except as otherwise authorized by the provisions
29 of NRS 453.011 to 453.552, inclusive, a person who knowingly or
30 intentionally sells, manufactures, delivers or brings into this State or
31 who is knowingly or intentionally in actual or constructive
32 possession of flunitrazepam, gamma-hydroxybutyrate, any
33 substance for which flunitrazepam or gamma-hydroxybutyrate is an
34 immediate precursor or any controlled substance which is listed in
35 schedule I, ~~or II,~~ except marijuana, or *schedule II, except*
36 *fentanyl*, or any mixture which contains any such controlled
37 substance, unless a greater penalty is provided pursuant to NRS
38 453.322, if the quantity involved:

39 (a) Is 100 grams or more, but less than 400 grams, is guilty of
40 low-level trafficking and shall be punished for a category B felony
41 by imprisonment in the state prison for a minimum term of not less
42 than 2 years and a maximum term of not more than 20 years and by
43 a fine of not more than \$100,000.



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

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

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

9 2. As used in this section, "marijuana" does not include
10 concentrated cannabis.

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

12 453.3405 1. Except as otherwise provided in subsection 2,
13 the adjudication of guilt and imposition of sentence of a person
14 found guilty of trafficking in a controlled substance in violation of
15 NRS 453.3385 or 453.339 *or section 1 of this act* must not be
16 suspended and the person is not eligible for parole until the person
17 has actually served the mandatory minimum term of imprisonment
18 prescribed by the section under which the person was convicted.

19 2. The court, upon an appropriate motion, may reduce or
20 suspend the sentence of any person convicted of violating any of the
21 provisions of NRS 453.3385 or 453.339 *or section 1 of this act* if
22 the court finds that the convicted person rendered substantial
23 assistance in the investigation or prosecution of any offense. The
24 arresting agency must be given an opportunity to be heard before the
25 motion is granted. Upon good cause shown, the motion may be
26 heard in camera.

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

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

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

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

37 (d) Any injury suffered or any danger or risk of injury to the
38 convicted person or his or her family resulting from his or her
39 assistance; and

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

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

42 453C.150 1. Notwithstanding any other provision of law, a
43 person who, in good faith, seeks medical assistance for a person
44 who is experiencing a drug or alcohol overdose or other medical
45 emergency or who seeks such assistance for himself or herself, or



1 who is the subject of a good faith request for such assistance may
2 not be arrested, charged, prosecuted or convicted, or have his or her
3 property subjected to forfeiture, or be otherwise penalized for
4 violating:

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

7 (1) Drug paraphernalia, including, without limitation, NRS
8 453.554 to 453.566, inclusive;

9 (2) Possession, unless it is for the purpose of sale or violates
10 the provisions of NRS 453.3385, subsection 2 of NRS 453.3393 or
11 453.3405 **[§] or section 1 of this act;** or

12 (3) Use of a controlled substance, including, without
13 limitation, NRS 453.336;

14 (b) A local ordinance as described in NRS 453.3361 that
15 establishes an offense that is similar to an offense set forth in
16 NRS 453.336;

17 (c) A restraining order; or

18 (d) A condition of the person's parole or probation,
19 ↪ if the evidence to support the arrest, charge, prosecution,
20 conviction, seizure or penalty was obtained as a result of the person
21 seeking medical assistance.

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

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

31 (a) Reports a drug or alcohol overdose or other medical
32 emergency to a member of a law enforcement agency, a 911
33 emergency service, a poison control center, a medical facility or a
34 provider of emergency medical services;

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

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

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

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



1 5. As used in this section, "drug or alcohol overdose" means a
2 condition, including, without limitation, extreme physical illness, a
3 decreased level of consciousness, respiratory depression, coma,
4 mania or death which is caused by the consumption or use of a
5 controlled substance or alcohol, or another substance with which a
6 controlled substance or alcohol was combined, or that an ordinary
7 layperson would reasonably believe to be a drug or alcohol overdose
8 that requires medical assistance.

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

10 179A.075 1. The Central Repository for Nevada Records of
11 Criminal History is hereby created within the Records,
12 Communications and Compliance Division of the Department.

13 2. Each agency of criminal justice and any other agency
14 dealing with crime shall:

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

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

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

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

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

29 (a) Through an electronic network;

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

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

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

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

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



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

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

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

7 (1) Records of criminal history; and

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

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

13 (c) Upon request, provide, in paper or electronic form, the
14 information that is contained in the Central Repository to the
15 Committee on Domestic Violence appointed pursuant to NRS
16 228.470 when, pursuant to NRS 228.495, the Committee is
17 reviewing the death of the victim of a crime that constitutes
18 domestic violence pursuant to NRS 33.018.

19 6. The Division may:

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

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

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

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

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

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

40 (4) For whom such information is required or authorized to
41 be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031,
42 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or

43 (5) About whom any agency of the State of Nevada or any
44 political subdivision thereof is authorized by law to have accurate



1 personal information for the protection of the agency or the persons
2 within its jurisdiction.

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

6 (a) The person's complete set of fingerprints for the purposes of:
7 (1) Booking the person into a city or county jail or detention
8 facility;

9 (2) Employment;

10 (3) Contractual services; or

11 (4) Services related to occupational licensing;

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

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

16 (1) Arrest; or

17 (2) Criminal investigation,

18 ↪ from the agency of criminal justice or agency of the State of
19 Nevada or any political subdivision thereof and submit the received
20 data to the Federal Bureau of Investigation for its report.

21 8. The Central Repository shall:

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

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

26 (c) Disseminate to federal agencies engaged in the collection of
27 statistical data relating to crime information which is contained in
28 the Central Repository.

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

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

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

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

36 ↪ and immediately notify the superintendent of each county school
37 district, the governing body of each charter school and the
38 Superintendent of Public Instruction, or the administrator of each
39 private school, as appropriate, if the investigation of the Central
40 Repository indicates that the person has been convicted of a
41 violation of NRS 200.508, 201.230, 453.3385 or 453.339, *or section*
42 *1 of this act*, or convicted of a felony or any offense involving moral
43 turpitude.

44 (e) Upon discovery, immediately notify the superintendent of
45 each county school district, the governing body of each charter



1 school or the administrator of each private school, as appropriate, by
2 providing the superintendent, governing body or administrator with
3 a list of all persons:

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

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

8 who the Central Repository's records indicate have been
9 convicted of a violation of NRS 200.508, 201.230, 453.3385 or
10 453.339, *or section 1 of this act*, or convicted of a felony or any
11 offense involving moral turpitude since the Central Repository's
12 initial investigation. The superintendent of each county school
13 district, the governing body of a charter school or the administrator
14 of each private school, as applicable, shall determine whether
15 further investigation or action by the district, charter school or
16 private school, as applicable, is appropriate.

17 (f) Investigate the criminal history of each person who submits
18 one or more fingerprints or other biometric identifier or has such
19 data submitted pursuant to NRS 62B.270, 62G.223, 62G.353,
20 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or
21 449.4329.

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

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

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

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

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

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

41 9. The Central Repository may:

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



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

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

12 10. As used in this section:

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

16 (b) "Personal identifying information" means any information
17 designed, commonly used or capable of being used, alone or in
18 conjunction with any other information, to identify a person,
19 including, without limitation:

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

23 (2) A biometric identifier of a person.

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

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

27 207.360 "Crime related to racketeering" means the commission
28 of, attempt to commit or conspiracy to commit any of the following
29 crimes:

30 1. Murder;

31 2. Manslaughter, except vehicular manslaughter as described in
32 NRS 484B.657;

33 3. Mayhem;

34 4. Battery which is punished as a felony;

35 5. Kidnapping;

36 6. Sexual assault;

37 7. Arson;

38 8. Robbery;

39 9. Taking property from another under circumstances not
40 amounting to robbery;

41 10. Extortion;

42 11. Statutory sexual seduction;

43 12. Extortionate collection of debt in violation of
44 NRS 205.322;



- 1 13. Forgery, including, without limitation, forgery of a credit
2 card or debit card in violation of NRS 205.740;
- 3 14. Obtaining and using personal identifying information of
4 another person in violation of NRS 205.463;
- 5 15. Establishing or possessing a financial forgery laboratory in
6 violation of NRS 205.46513;
- 7 16. Any violation of NRS 199.280 which is punished as a
8 felony;
- 9 17. Burglary;
- 10 18. Grand larceny;
- 11 19. Bribery or asking for or receiving a bribe in violation of
12 chapter 197 or 199 of NRS which is punished as a felony;
- 13 20. Battery with intent to commit a crime in violation of
14 NRS 200.400;
- 15 21. Assault with a deadly weapon;
- 16 22. Any violation of NRS 453.232, 453.316 to 453.339,
17 inclusive, *and section 1 of this act*, or NRS 453.375 to 453.401,
18 inclusive;
- 19 23. Receiving or transferring a stolen vehicle;
- 20 24. Any violation of NRS 202.260, 202.275 or 202.350 which
21 is punished as a felony;
- 22 25. Any violation of subsection 2 or 3 of NRS 463.360 or
23 chapter 465 of NRS;
- 24 26. Receiving, possessing or withholding stolen goods valued
25 at \$650 or more;
- 26 27. Embezzlement of money or property valued at \$650 or
27 more;
- 28 28. Obtaining possession of money or property valued at \$650
29 or more, or obtaining a signature by means of false pretenses;
- 30 29. Perjury or subornation of perjury;
- 31 30. Offering false evidence;
- 32 31. Any violation of NRS 201.300, 201.320, 201.360 or
33 201.395;
- 34 32. Any violation of NRS 90.570, 91.230 or 686A.290, or
35 insurance fraud pursuant to NRS 686A.291;
- 36 33. Any violation of NRS 205.506, 205.920 or 205.930;
- 37 34. Any violation of NRS 202.445 or 202.446;
- 38 35. Any violation of NRS 205.377;
- 39 36. Involuntary servitude in violation of any provision of NRS
40 200.463 or 200.464 or a violation of any provision of NRS 200.465;
41 or
- 42 37. Trafficking in persons in violation of any provision of NRS
43 200.467 or 200.468.



1 **Sec. 13.** NRS 391.650 is hereby amended to read as follows:
2 391.650 As used in NRS 391.650 to 391.826, inclusive, unless
3 the context otherwise requires:

4 1. “Administrator” means any employee who holds a license as
5 an administrator and who is employed in that capacity by a school
6 district.

7 2. “Board” means the board of trustees of the school district in
8 which a licensed employee affected by NRS 391.650 to 391.826,
9 inclusive, is employed.

10 3. “Demotion” means demotion of an administrator to a
11 position of lesser rank, responsibility or pay and does not include
12 transfer or reassignment for purposes of an administrative
13 reorganization.

14 4. “Immorality” means:

15 (a) An act forbidden by NRS 200.366, 200.368, 200.400,
16 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265,
17 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an
18 act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405,
19 inclusive, *and section 1 of this act*, 453.560 or 453.562; or

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

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

29 6. “Probationary employee” means:

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

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

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

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

