

Amendment No. 86

Assembly Amendment to Assembly Bill No. 158	(BDR 15-360)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 158—ASSEMBLYMEN MONROE-MORENO; ANDERSON, BILBRAY-AXELROD, BROWN-MAY, COHEN, CONSIDINE, DURAN, FLORES, GONZÁLEZ, GORELOW, MARZOLA, BRITTNEY MILLER, OARENTLICHER, PETERS, ROBERTS, SUMMERS-ARMSTRONG, THOMAS, WATTS AND YEAGER

FEBRUARY 18, 2021

JOINT SPONSORS: SENATORS D. HARRIS AND BROOKS

Referred to Committee on Judiciary

SUMMARY—Revises the penalties for certain offenses involving alcohol or cannabis. (BDR 15-360)

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

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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 crimes; establishing and revising the penalties for certain offenses involving alcohol ~~for~~ , marijuana and cannabis; requiring the automatic sealing of records relating to certain offenses involving alcohol, marijuana and cannabis; providing juvenile courts with exclusive jurisdiction over offenses relating to alcohol or marijuana committed by children; establishing provisions relating to the issuance of citations for offenses relating to alcohol or marijuana committed by children; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes it a misdemeanor for a person who is under 21 years of age to: (1) purchase, consume or possess alcohol; (2) falsely represent himself or herself to be 21 years of age to obtain alcohol; or (3) ~~possess 1 ounce or less of marijuana without being authorized to possess cannabis; or (4)~~ falsely represent himself or herself to be 21 years of age or older to obtain cannabis. (NRS 202.020, 202.040, ~~453.336,~~ 678D.310) Additionally, existing law makes it a misdemeanor to possess 1 ounce or less of marijuana without being authorized to possess cannabis. (NRS 453.336) Existing law ~~also~~ provides that unless the statute in force at the time of commission of a misdemeanor prescribes a different penalty, a misdemeanor is punishable by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment. (NRS 193.150)

~~[This bill revises] Sections 1, 2, 3 and 4 of this bill revise the penalties for [a] the first offense in which a person who is under 21 years of age: (1) purchases, consumes or possesses alcohol; (2) falsely represents himself or herself to be 21 years of age to obtain alcohol; (3) possesses 1 ounce or less of marijuana without being authorized to possess cannabis; or (4) falsely represents himself or herself to be 21 years of age or older to obtain cannabis. This bill provides that for such offenses, a person convicted of the offense; and second violations.~~

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17 respectively, of each such offense. For the first violation, sections 1, 2, 3 and 4,
 18 respectively, provide that a person: (1) is not subject to imprisonment in the county jail
 19 or a fine; (2) must perform not more than 24 hours of community service; and (3) must
 20 attend a meeting of a panel of victims of persons injured or killed by a person who was
 21 driving under the influence of alcohol or a controlled substance. For the second offense,
 22 sections 1, 2, 3 and 4, respectively, provide that a person: (1) is not subject to
 23 imprisonment in the county jail or a fine; and (2) must complete not more than 100 hours of
 24 counseling or participation in an educational program, a support group relating to the use of
 25 alcohol or other substances or another program of treatment for the use of alcohol or other
 26 substances.

27 Sections 1, 2, 3 and 4, respectively, also require the court to automatically seal
 28 records relating to such convictions if the offender completes the terms and conditions
 29 imposed by the court.

30 Existing law defines “child,” for the purposes of juvenile justice, as a person who is:
 31 (1) less than 18 years of age; (2) less than 21 years of age and is subject to the jurisdiction
 32 of the juvenile court for an unlawful act committed before the person reached 18 years
 33 of age; or (3) subject to the jurisdiction of the juvenile court as a juvenile sex offender.
 34 (NRS 62A.030) Section 2.8 of this bill: (1) establishes penalties for certain unlawful acts
 35 relating to the possession or consumption of alcohol or the possession of less than 1
 36 ounce of marijuana committed by children; and (2) requires a child who commits such
 37 unlawful acts to be punished in accordance with the penalties for children instead of
 38 those penalties set forth in section 1 or 3 of this bill.

39 Existing law establishes the jurisdiction of juvenile courts. (NRS 62B.320) Section
 40 2.2 of this bill expands the jurisdiction of juvenile courts to include offenses committed
 41 by children relating to the possession or consumption of alcohol or offenses relating to
 42 possessing 1 ounce or less of marijuana. Section 2.4 of this bill makes a conforming
 43 change relating to the jurisdiction of juvenile courts.

44 Existing law authorizes a peace officer to issue a child a citation for certain traffic
 45 offenses and tobacco related offenses. (NRS 62C.070, 62C.072) Section 2.6 of this bill
 46 establishes provisions authorizing a peace officer to issue a child a citation for certain
 47 offenses relating to the possession or consumption of alcohol or the possession of 1 ounce
 48 or less of marijuana.

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

1 **Section 1.** NRS 202.020 is hereby amended to read as follows:

2 202.020 1. Except as otherwise provided in this section, a person under 21
 3 years of age who purchases any alcoholic beverage or ~~any such person who~~
 4 consumes any alcoholic beverage in any saloon, resort or premises where
 5 spirituous, malt or fermented liquors or wines are sold is guilty of a misdemeanor
 6 ~~and shall be punished:~~

7 (a) *For a first offense, by:*

8 (1) Performing not more than 24 hours of community service; and

9 (2) Attending the live meeting described in paragraph (a) of subsection 2
 10 of NRS 484C.530.

11 (b) For a second offense, by completion of not more than 100 hours of
 12 counseling or participation in an educational program, a support group relating
 13 to the use of alcohol or other substances or another program of treatment for the
 14 use of alcohol or other substances.

15 ~~(b)~~ (c) *For a ~~second~~ third or subsequent offense, as provided in NRS*
 16 *193.150.*

17 2. Except as otherwise provided in this section, a person under 21 years of age
 18 who, for any reason, possesses any alcoholic beverage in public is guilty of a
 19 misdemeanor ~~and shall be punished:~~

1 (a) For a first offense, by:

2 (1) Performing not more than 24 hours of community service; and

3 (2) Attending the live meeting described in paragraph (a) of subsection 2
4 of NRS 484C.530;

5 (b) For a second offense, by completion of not more than 100 hours of
6 counseling or participation in an educational program, a support group relating
7 to the use of alcohol or other substances or another program of treatment for the
8 use of alcohol or other substances.

9 ~~(b)~~ (c) For a ~~second~~ third or subsequent offense, as provided in NRS
10 193.150.

11 3. If a person under 21 years of age fulfills the terms and conditions
12 imposed for a violation of subsection 1 or 2, the court shall, without a hearing,
13 order sealed all documents, papers and exhibits in that person's record, minute
14 book entries and entries on dockets, and other documents relating to the case in
15 the custody of such other agencies and officers as are named in the court's order.
16 The court shall cause a copy of the order to be sent to each agency or officer
17 named in the order. Each such agency or officer shall notify the court in writing
18 of its compliance with the order.

19 4. A person under 21 years of age is not subject to the criminal penalty set
20 forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the
21 person requests emergency medical assistance for another person whom he or she
22 reasonably believes is under 21 years of age if the person making the request:

23 (a) Reasonably believes that the person who consumed the alcohol is in need of
24 such assistance because of the alcohol consumption;

25 (b) Is the first person to request emergency medical assistance for the person;

26 (c) Remains with the person until informed that his or her presence is no longer
27 necessary by the emergency medical personnel who respond to the request for
28 assistance for the person; and

29 (d) Cooperates with any provider of emergency medical assistance, any other
30 health care provider who assists the person who may be in need of emergency
31 medical assistance because of alcohol consumption and any law enforcement
32 officer.

33 ~~(4)~~ 5. A person under 21 years of age for whom another person requests
34 emergency medical assistance pursuant to subsection ~~(3)~~ 4 is not subject to the
35 criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or
36 subsection 2.

37 ~~(5)~~ 6. A person under 21 years of age is not subject to the criminal penalty
38 set forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the
39 person:

40 (a) Requests emergency medical assistance because he or she reasonably
41 believes that he or she is in need of medical assistance because of alcohol
42 consumption; and

43 (b) Cooperates with any provider of emergency medical assistance, any other
44 health care provider who provides assistance to him or her and any law
45 enforcement officer.

46 ~~(6)~~ 7. This section does not preclude a local governmental entity from
47 enacting by ordinance an additional or broader restriction, except that any such
48 ordinance must not conflict with the provisions of subsection ~~(3, 4 or)~~ 4, 5 or 6 or
49 create criminal liability for a person to whom an exemption set forth in subsection
50 ~~(3, 4 or)~~ 4, 5 or 6 applies.

51 ~~(7)~~ 8. For the purposes of this section, possession "in public" includes
52 possession:

53 (a) On any street or highway;

- (b) In any place open to the public; and
- (c) In any private business establishment which is in effect open to the public.

~~§ 9.~~ 9. The term does not include:

- (a) Possession for an established religious purpose;
- (b) Possession in the presence of the person’s parent, spouse or legal guardian who is 21 years of age or older;
- (c) Possession in accordance with a prescription issued by a person statutorily authorized to issue prescriptions;
- (d) Possession in private clubs or private establishments; or
- (e) The selling, handling, serving or transporting of alcoholic beverages by a person in the course of his or her lawful employment by a licensed manufacturer, wholesaler or retailer of alcoholic beverages.

Sec. 2. NRS 202.040 is hereby amended to read as follows:

202.040 ~~Every~~

1. A ~~minor~~ person who is under 21 years of age and who ~~shall~~ falsely ~~represent~~ *represents* himself or herself to be 21 years of age *or older* in order to obtain any intoxicating liquor ~~shall be~~ *is* guilty of a misdemeanor ~~and shall be punished:~~

~~It~~ *(a) For a first offense, by:*

(1) Performing not more than 24 hours of community service; and

(2) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530.

(b) For a second offense, by completion of not more than 100 hours of counseling or participation in an educational program, a support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances.

~~It~~ *(c) For a ~~second~~ third or subsequent offense, as provided in NRS 193.150.*

2. If a person under 21 years of age fulfills the terms and conditions imposed for a violation of this section, the court shall, without a hearing, order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

Sec. 2.2. NRS 62B.320 is hereby amended to read as follows:

62B.320 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:

- (a) Is subject to compulsory school attendance and is a habitual truant from school;
- (b) Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable;
- (c) Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation;
- (d) Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of NRS 200.737;
- (e) Transmits or distributes an image of bullying committed against a minor in violation of NRS 200.900;
- (f) Violates a county or municipal ordinance imposing a curfew on a child;

1 (g) Violates a county or municipal ordinance restricting loitering by a child;
2 ~~(e)~~

3 (h) Commits an offense related to tobacco ~~(f)~~;

4 (i) Commits an offense related to consuming or possessing alcohol; or

5 (j) Commits an offense related to the possession of 1 ounce or less of
6 marijuana.

7 2. A child who is subject to the jurisdiction of the juvenile court pursuant to
8 this section must not be considered a delinquent child.

9 3. The provisions of subsection 1 do not prohibit the imposition of
10 administrative sanctions pursuant to NRS 392.148 against a child who is subject to
11 compulsory school attendance and is a habitual truant from school.

12 4. As used in this section:

13 (a) "Bullying" means a willful act which is written, verbal or physical, or a
14 course of conduct on the part of one or more persons which is not otherwise
15 authorized by law and which exposes a person one time or repeatedly and over time
16 to one or more negative actions which is highly offensive to a reasonable person
17 and:

18 (1) Is intended to cause or actually causes the person to suffer harm or
19 serious emotional distress;

20 (2) Poses a threat of immediate harm or actually inflicts harm to another
21 person or to the property of another person;

22 (3) Places the person in reasonable fear of harm or serious emotional
23 distress; or

24 (4) Creates an environment which is hostile to a pupil by interfering with
25 the education of the pupil.

26 (b) "Electronic communication device" has the meaning ascribed to it in NRS
27 200.737.

28 (c) "Sexual image" has the meaning ascribed to it in NRS 200.737.

29 **Sec. 2.4. NRS 62B.330 is hereby amended to read as follows:**

30 62B.330 1. Except as otherwise provided in this title, the juvenile court has
31 exclusive original jurisdiction over a child living or found within the county who is
32 alleged or adjudicated to have committed a delinquent act.

33 2. For the purposes of this section, a child commits a delinquent act if the
34 child:

35 (a) Violates a county or municipal ordinance other than those specified in
36 paragraph (f), ~~(e)~~ (g), (i) or (j) of subsection 1 of NRS 62B.320 or an offense
37 related to tobacco;

38 (b) Violates any rule or regulation having the force of law; or

39 (c) Commits an act designated a criminal offense pursuant to the laws of the
40 State of Nevada.

41 3. For the purposes of this section, each of the following acts shall be deemed
42 not to be a delinquent act, and the juvenile court does not have jurisdiction over a
43 person who is charged with committing such an act:

44 (a) Murder or attempted murder and any other related offense arising out of the
45 same facts as the murder or attempted murder, regardless of the nature of the
46 related offense, if the person was 16 years of age or older when the murder or
47 attempted murder was committed.

48 (b) Sexual assault or attempted sexual assault involving the use or threatened
49 use of force or violence against the victim and any other related offense arising out
50 of the same facts as the sexual assault or attempted sexual assault, regardless of the
51 nature of the related offense, if:

52 (1) The person was 16 years of age or older when the sexual assault or
53 attempted sexual assault was committed; and

1 (2) Before the sexual assault or attempted sexual assault was committed,
2 the person previously had been adjudicated delinquent for an act that would have
3 been a felony if committed by an adult.

4 (c) An offense or attempted offense involving the use or threatened use of a
5 firearm and any other related offense arising out of the same facts as the offense or
6 attempted offense involving the use or threatened use of a firearm, regardless of the
7 nature of the related offense, if:

8 (1) The person was 16 years of age or older when the offense or attempted
9 offense involving the use or threatened use of a firearm was committed; and

10 (2) Before the offense or attempted offense involving the use or threatened
11 use of a firearm was committed, the person previously had been adjudicated
12 delinquent for an act that would have been a felony if committed by an adult.

13 (d) A felony resulting in death or substantial bodily harm to the victim and any
14 other related offense arising out of the same facts as the felony, regardless of the
15 nature of the related offense, if:

16 (1) The felony was committed on the property of a public or private school
17 when pupils or employees of the school were present or may have been present, at
18 an activity sponsored by a public or private school or on a school bus while the bus
19 was engaged in its official duties; and

20 (2) The person intended to create a great risk of death or substantial bodily
21 harm to more than one person by means of a weapon, device or course of action
22 that would normally be hazardous to the lives of more than one person.

23 (e) A category A or B felony and any other related offense arising out of the
24 same facts as the category A or B felony, regardless of the nature of the related
25 offense, if the person was at least 16 years of age but less than 18 years of age when
26 the offense was committed, and:

27 (1) The person is not identified by law enforcement as having committed
28 the offense and charged before the person is at least 20 years, 3 months of age, but
29 less than 21 years of age; or

30 (2) The person is not identified by law enforcement as having committed
31 the offense until the person reaches 21 years of age.

32 (f) Any other offense if, before the offense was committed, the person
33 previously had been convicted of a criminal offense.

34 **Sec. 2.6. Chapter 62C of NRS is hereby amended by adding thereto a**
35 **new section to read as follows:**

36 **1. A peace officer may prepare and issue a citation in the same manner in**
37 **which a traffic citation is prepared and issued pursuant to NRS 62C.070, if the**
38 **child is stopped or otherwise detained by the peace officer for:**

39 **(a) A violation of NRS 202.020;**

40 **(b) A violation of a city or county ordinance relating to the consumption or**
41 **possession of alcohol; or**

42 **(c) A violation of subsection 4 of NRS 453.336 for possession of 1 ounce or**
43 **less of marijuana.**

44 **2. If a child who is issued a citation pursuant to subsection 1 executes a**
45 **written promise to appear in court by signing the citation, the peace officer:**

46 **(a) Shall deliver a copy of the citation to the child; and**

47 **(b) Shall not take the child into physical custody for the violation unless:**

48 **(1) The peace officer believes that there is an imminent risk to the safety**
49 **of the child or an imminent risk of harm to the child; and**

50 **(2) The safety of the child will not be ensured by placing the child with:**

51 **(I) An adult relative of the child;**

52 **(II) A treatment facility; or**

1 (III) A shelter designed to assist children who run away from their
2 parent or guardian or are victims of sex trafficking.

3 3. If a child who is issued a citation refuses to execute a written promise to
4 appear in court but physically receives a copy of the citation delivered by the
5 peace officer:

6 (a) The receipt shall be deemed personal service of the notice to appear in
7 court;

8 (b) A copy of the citation signed by the peace officer suffices as proof of
9 service; and

10 (c) The peace officer shall not take the child into physical custody for the
11 violation.

12 4. At the time that a child is issued a citation pursuant to subsection 1, the
13 peace officer shall make reasonable attempts to notify a parent or guardian of the
14 child, and a peace officer shall not take the child into custody by reason alone of
15 being unable to contact the parent or child of the guardian.

16 Sec. 2.8. Chapter 62E of NRS is hereby amended by adding thereto a
17 new section to read as follows:

18 1. If a child commits an alcohol or marijuana offense:

19 (a) For a first offense:

20 (1) The complaint must be referred to a probation officer pursuant to
21 NRS 62C.100 and the child may be placed under informal supervision pursuant
22 to NRS 62C.200; and

23 (2) The child shall perform not more than 24 hours of community
24 service.

25 (b) For a second offense:

26 (1) The complaint must be referred to a probation officer pursuant to
27 NRS 62C.100 and the child may be placed under informal supervision pursuant
28 to NRS 62C.200; and

29 (2) The child shall perform not more than 24 hours of community
30 service.

31 (c) For a third or subsequent offense, a district attorney may file a petition
32 alleging delinquency.

33 2. As used in this section, "alcohol or marijuana offense" means:

34 (a) A violation of NRS 202.020;

35 (b) A violation of a city or county ordinance relating to the consumption or
36 possession of alcohol; or

37 (c) A violation of subsection 4 of NRS 453.336 for possession of 1 ounce or
38 less of marijuana.

39 Sec. 3. NRS 453.336 is hereby amended to read as follows:

40 453.336 1. Except as otherwise provided in subsection 5, a person shall not
41 knowingly or intentionally possess a controlled substance, unless the substance was
42 obtained directly from, or pursuant to, a prescription or order of a physician,
43 physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
44 podiatric physician, optometrist, advanced practice registered nurse or veterinarian
45 while acting in the course of his or her professional practice, or except as otherwise
46 authorized by the provisions of NRS 453.005 to 453.552, inclusive.

47 2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363,
48 and unless a greater penalty is provided in NRS 212.160, 453.3385 or 453.339, a
49 person who violates this section:

50 (a) For a first or second offense, if the controlled substance is listed in schedule
51 I or II and the quantity possessed is less than 14 grams, or if the controlled
52 substance is listed in schedule III, IV or V and the quantity possessed is less than 28
53 grams, is guilty of possession of a controlled substance and shall be punished for a

1 category E felony as provided in NRS 193.130. In accordance with NRS 176.211,
2 the court shall defer judgment upon the consent of the person.

3 (b) For a third or subsequent offense, if the controlled substance is listed in
4 schedule I or II and the quantity possessed is less than 14 grams, or if the controlled
5 substance is listed in schedule III, IV or V and the quantity possessed is less than 28
6 grams, or if the offender has previously been convicted two or more times in the
7 aggregate of any violation of the law of the United States or of any state, territory
8 or district relating to a controlled substance, is guilty of possession of a controlled
9 substance and shall be punished for a category D felony as provided in NRS
10 193.130, and may be further punished by a fine of not more than \$20,000.

11 (c) If the controlled substance is listed in schedule I or II and the quantity
12 possessed is 14 grams or more, but less than 28 grams, or if the controlled
13 substance is listed in schedule III, IV or V and the quantity possessed is 28 grams
14 or more, but less than 200 grams, is guilty of low-level possession of a controlled
15 substance and shall be punished for a category C felony as provided in NRS
16 193.130.

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

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

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

35 4. Unless a greater penalty is provided pursuant to NRS 212.160, a person
36 who is convicted of the possession of 1 ounce or less of marijuana:

37 (a) For the first offense, is guilty of a misdemeanor and shall be punished by:

38 (1) Performing not more than 24 hours of community service; and

39 (2) Attending the live meeting described in paragraph (a) of subsection 2
40 of NRS 484C.530.

41 (b) For the second offense, is guilty of a misdemeanor and shall be:

42 (1) Punished by ~~[a fine of not more than \$600.]~~ completion of not more
43 than 100 hours of counseling or participation in an educational program, a
44 support group relating to the use of alcohol or other substances or another
45 program of treatment for the use of alcohol or other substances; or

46 (2) Assigned to a program of treatment and rehabilitation pursuant to NRS
47 176A.230 if the court determines that the person is eligible to participate in such a
48 program.

49 ~~(b)~~ (c) For the ~~[second]~~ third offense, is guilty of a misdemeanor and shall
50 be:

51 (1) Punished by a fine of not more than \$1,000; or

1 (2) Assigned to a program of treatment and rehabilitation pursuant to NRS
2 176A.230 if the court determines that the person is eligible to participate in such a
3 program.

4 ~~(c)~~ (d) For the ~~third~~ fourth offense, is guilty of a gross misdemeanor and
5 shall be punished as provided in NRS 193.140.

6 ~~(d)~~ (e) For a ~~fourth~~ fifth or subsequent offense, is guilty of a category E
7 felony and shall be punished as provided in NRS 193.130.

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

12 6. The court may grant probation to or suspend the sentence of a person
13 convicted of violating this section.

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

22 8. As used in this section:

23 (a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate
24 and each substance for which flunitrazepam or gamma-hydroxybutyrate is an
25 immediate precursor.

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

27 (c) "Sterile hypodermic device program" has the meaning ascribed to it in NRS
28 439.986.

29 Sec. 3.5. NRS 484C.350 is hereby amended to read as follows:

30 484C.350 1. If an offender is found guilty of a violation of NRS 484C.110
31 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if
32 the concentration of alcohol in the offender's blood or breath at the time of the
33 offense was 0.18 or more, ~~or~~ if an offender is found guilty of a violation of NRS
34 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1
35 of NRS 484C.400 ~~or~~ or if the offender is found guilty of a violation of paragraph
36 (a) of subsection 4 of 453.336, the court shall, before sentencing the offender,
37 require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to
38 determine whether the offender has an alcohol or other substance use disorder.

39 2. If an offender is convicted of a violation of NRS 484C.110 or 484C.120
40 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if
41 the offender is under 21 years of age at the time of the violation ~~or~~ or if the
42 offender is convicted of a violation of NRS 202.020, 202.040 or paragraph (a) of
43 subsection 4 of NRS 678D.310, the court shall, before sentencing the offender,
44 require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to
45 determine whether the offender has an alcohol or other substance use disorder.

46 3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an
47 offender pursuant to this section must be conducted at an evaluation center by:

48 (a) An alcohol and drug counselor who is licensed or certified, or a clinical
49 alcohol and drug counselor who is licensed, pursuant to chapter 641C of NRS, to
50 make that evaluation;

51 (b) A physician who is certified to make that evaluation by the Board of
52 Medical Examiners; or

1 (c) An advanced practice registered nurse who is certified to make that
2 diagnosis by the State Board of Nursing,
3 who shall report to the court the results of the evaluation and make a
4 recommendation to the court concerning the length and type of treatment required
5 for the offender.

6 4. The evaluation of an offender who resides more than 30 miles from an
7 evaluation center may be conducted outside an evaluation center by a person who
8 has the qualifications set forth in subsection 3. The person who conducts the
9 evaluation shall report to the court the results of the evaluation and make a
10 recommendation to the court concerning the length and type of treatment required
11 for the offender.

12 5. The evaluation of an offender who resides in another state may, upon
13 approval of the court, be conducted in the state where the offender resides by a
14 physician, advanced practice registered nurse or other person who is authorized by
15 the appropriate governmental agency in that state to conduct such an evaluation.
16 The offender shall ensure that the results of the evaluation and the recommendation
17 concerning the length and type of treatment for the offender are reported to the
18 court.

19 6. The evaluation of an offender who resides in this State may, upon approval
20 of the court, be conducted in another state by a physician, advanced practice
21 registered nurse or other person who is authorized by the appropriate governmental
22 agency in that state to conduct such an evaluation if the location of the physician,
23 advanced practice registered nurse or other person in the other state is closer to the
24 residence of the offender than the nearest location in this State at which an
25 evaluation may be conducted. The offender shall ensure that the results of the
26 evaluation and the recommendation concerning the length and type of treatment for
27 the offender are reported to the court.

28 7. An offender who is evaluated pursuant to this section shall pay the cost of
29 the evaluation. An evaluation center or a person who conducts an evaluation in this
30 State outside an evaluation center shall not charge an offender more than \$100 for
31 the evaluation.

32 **Sec. 4.** NRS 678D.310 is hereby amended to read as follows:

33 678D.310 1. Except as otherwise provided in chapter 678C of NRS, ~~any~~ a
34 person shall not:

35 (a) Cultivate cannabis within 25 miles of an adult-use cannabis retail store
36 licensed pursuant to chapter 678B of NRS, unless the person is an adult-use
37 cannabis cultivation facility or is a cannabis establishment agent volunteering at,
38 employed by or providing labor to an adult-use cannabis cultivation facility;

39 (b) Cultivate cannabis plants where they are visible from a public place by
40 normal unaided vision; or

41 (c) Cultivate cannabis on property not in the cultivator's lawful possession or
42 without the consent of the person in lawful physical possession of the property.

43 2. A person who violates the provisions of subsection 1 is guilty of:

44 (a) For a first violation, a misdemeanor punished by a fine of not more than
45 \$600.

46 (b) For a second violation, a misdemeanor punished by a fine of not more than
47 \$1,000.

48 (c) For a third violation, a gross misdemeanor.

49 (d) For a fourth or subsequent violation, a category E felony.

50 3. A person who smokes or otherwise consumes cannabis or a cannabis
51 product in a public place, in an adult-use cannabis retail store or in a vehicle is
52 guilty of a misdemeanor punished by a fine of not more than \$600.

1 4. A person under 21 years of age who falsely represents himself or herself to
2 be 21 years of age or older to obtain cannabis is guilty of a misdemeanor ~~and~~ **and**
3 **shall be punished:**

4 (a) For a first offense, by:

5 (1) Performing not more than 24 hours of community service; and

6 (2) Attending the live meeting described in paragraph (a) of subsection 2
7 of NRS 484C.530.

8 (b) For a second offense, by completion of not more than 100 hours of
9 counseling or participation in an educational program, a support group relating
10 to the use of alcohol or other substances or another program of treatment for the
11 use of alcohol or other substances.

12 ~~[(b)]~~ (c) For a ~~second~~ third or subsequent offense, as provided in NRS
13 193.150.

14 5. If a person under 21 years of age fulfills the terms and conditions
15 imposed for a violation of subsection 4, the court shall, without a hearing, order
16 sealed all documents, papers and exhibits in that person's record, minute book
17 entries and entries on dockets, and other documents relating to the case in the
18 custody of such other agencies and officers as are named in the court's order.
19 The court shall cause a copy of the order to be sent to each agency or officer
20 named in the order. Each such agency or officer shall notify the court in writing
21 of its compliance with the order.

22 6. A person under 21 years of age who knowingly enters, loiters or remains
23 on the premises of an adult-use cannabis establishment shall be punished by a fine
24 of not more than \$500 unless the person is authorized to possess cannabis pursuant
25 to chapter 678C of NRS and the adult-use cannabis establishment is a dual licensee.

26 ~~[(6)]~~ 7. A person who manufactures cannabis by chemical extraction or
27 chemical synthesis, unless done pursuant to an adult-use cannabis establishment
28 license for an adult-use cannabis production facility issued by the Board or
29 authorized by this title, is guilty of a category E felony.

30 ~~[(7)]~~ 8. A person who knowingly gives cannabis or a cannabis product to any
31 person under 21 years of age or who knowingly leaves or deposits any cannabis or
32 cannabis product in any place with the intent that it will be procured by any person
33 under 21 years of age is guilty of a misdemeanor.

34 ~~[(8)]~~ 9. A person who knowingly gives cannabis to any person under 18 years
35 of age or who knowingly leaves or deposits any cannabis in any place with the
36 intent that it will be procured by any person under 18 years of age is guilty of a
37 gross misdemeanor.

38 **Sec. 5.** The amendatory provisions of sections 1, 2, 3 and 3.5 of this act
39 apply to an offense committed:

40 1. Before October 1, 2021, if the person is sentenced on or after October 1,
41 2021.

42 2. On or after October 1, 2021.