

SENATE BILL NO. 221—SENATORS JONES, FORD,
KIHUEN, SEGERBLOM AND SPEARMAN

MARCH 7, 2013

Referred to Committee on Health and Human Services

SUMMARY—Makes certain changes relating to public safety.
(BDR 14-943)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 certain persons to request a background check before transferring a firearm to another person under certain circumstances; 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.



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
5 is incompetent to stand trial, a verdict acquitting a defendant by reason of insanity
6 or a plea or finding of guilty but mentally ill, along with a statement that the record
7 is 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, 7 and 11** 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 4.5, 4.6, 4.7 and 11** of this bill also authorize or require, as
15 appropriate, the inclusion, correction and removal of such information in each
16 appropriate database of the National Crime Information Center. **Section 4.1** of this
17 bill defines "National Crime Information Center" to mean the computerized
18 information system created and maintained by the Federal Bureau of Investigation
19 pursuant to 28 U.S.C. § 534.

20 Existing law requires each agency of criminal justice to submit information
21 relating to records of criminal history within the period prescribed by the Director
22 of the Department of Public Safety. (NRS 179A.075) **Section 4.3** of this bill
23 requires the submission of such information within 60 days after the date of the
24 conviction.

25 Existing law authorizes a private person who wishes to transfer a firearm to
26 another person to request the Central Repository to perform a background check on
27 the person who wishes to acquire the firearm. (NRS 202.254) **Section 8** of this bill
28 requires, with certain exceptions, that a private person who wishes to transfer a
29 firearm to another person must request that a federally licensed firearms dealer
30 submit a request for a background check to the Central Repository. **Section 8** also
31 provides that a private person may not transfer a firearm to another person unless
32 the private person has received notification from the licensed dealer that the
33 background check indicates that the receipt of a firearm by the person who wishes
34 to acquire the firearm would not violate a state or federal law, except that the
35 private person may make the transfer if he or she has not received notification from
36 the licensed dealer regarding the request by the close of business on the third
37 business day after making the request. In addition, **section 8** provides that the
38 Central Repository may not charge a fee for the background check. Finally, **section**
39 **8** establishes penalties for a private person who violates this section.

40 Existing law prohibits a person who has been adjudicated as mentally ill, has
41 been committed to any mental health facility or is illegally or unlawfully in the
42 United States from possessing or having custody or control of a firearm. (NRS
43 202.360) **Section 9** of this bill also prohibits a person who has entered a plea of
44 guilty but mentally ill, has been found guilty but mentally ill or has been acquitted
45 by reason of insanity from possessing or having custody or control of a firearm.

46 Existing law prohibits a person from selling or otherwise disposing of any
47 firearm or ammunition to another person if he or she has actual knowledge that the
48 other person: (1) is under indictment for, or has been convicted of, a felony; (2) is a
49 fugitive from justice; (3) has been adjudicated as mentally ill or has been
50 committed to a mental health facility; or (4) is illegally or unlawfully in the United
51 States. (NRS 202.362) **Section 10** of this bill prohibits a person from selling or
52 otherwise disposing of any firearm or ammunition to another person if he or she has
53 reasonable cause to believe that the other person meets any of those listed
54 conditions or if the other person is otherwise prohibited from possessing a firearm.



55 Existing law provides that a patient has a privilege to refuse to disclose and to
56 prevent any other person from disclosing confidential communications between the
57 patient and the patient's psychologist or doctor. (NRS 49.209, 49.225) **Sections 5**
58 **and 6** of this bill provide exceptions to the privilege for certain determinations
59 which are now required pursuant to this bill.

60 Existing law: (1) designates the Division of Mental Health and Developmental
61 Services of the Department of Health and Human Services as the official state
62 agency for developing and administering outpatient mental health services; and (2)
63 requires the Division to perform certain functions relating to mental health.
64 (NRS 436.123) **Section 12** of this bill requires the Division to assist and consult
65 with local governments and all law enforcement agencies in this State in providing
66 community mental health services.

67 Existing law imposes various requirements and duties on certain health care
68 professionals. (Chapter 629 of NRS) **Section 13** of this bill provides that if a patient
69 of a mental health professional makes an explicit threat of imminent serious
70 physical harm or death to a person, and the mental health professional believes the
71 patient has the intent and ability to carry out the threat, the mental health
72 professional must notify the threatened person and the appropriate law enforcement
73 agency. A mental health professional who exercises reasonable care in determining
74 whether or not to provide notice of such a threat is not subject to civil or criminal
75 liability or disciplinary action by a professional licensing board for disclosing
76 confidential or privileged information or for any damages caused by the actions of a
77 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



1 entered a plea of guilty but mentally ill has the burden of
2 establishing the defendant's mental illness by a preponderance of
3 the evidence. Except as otherwise provided by specific statute, a
4 defendant who enters such a plea is subject to the same criminal,
5 civil and administrative penalties and procedures as a defendant who
6 pleads guilty.

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

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

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

18 (1) Know or understand the nature and capacity of his or her
19 act; or

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

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

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

28 (a) Probation is not allowed; or

29 (b) The maximum prison sentence is more than 10 years,

30 ↪ unless the plea bargain is set forth in writing and signed by the
31 defendant, the defendant's attorney, if the defendant is represented
32 by counsel, and the prosecuting attorney.

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

41 9. As used in this section:

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

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



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

2 175.533 1. During a trial, upon a plea of not guilty by reason
3 of insanity, the trier of fact may find the defendant guilty but
4 mentally ill if the trier of fact finds all of the following:

5 (a) The defendant is guilty beyond a reasonable doubt of an
6 offense;

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

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

13 2. Except as otherwise provided by specific statute, a defendant
14 who is found guilty but mentally ill is subject to the same criminal,
15 civil and administrative penalties and procedures as a defendant who
16 is found guilty.

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

25 4. As used in this section:

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

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

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

31 175.539 1. Where on a trial a defense of insanity is
32 interposed by the defendant and the defendant is acquitted by reason
33 of that defense, the finding of the jury pending the judicial
34 determination pursuant to subsection 2 has the same effect as if the
35 defendant were regularly adjudged insane, and the judge must:

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

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

42 (c) At a hearing in open court, receive the report of the
43 examining advisers and allow counsel for the State and for the
44 person to examine the advisers, introduce other evidence and cross-
45 examine witnesses.



1 2. If the court finds, after the hearing:
2 (a) That there is not clear and convincing evidence that the
3 person is a person with mental illness, the court must order the
4 person's discharge; or

5 (b) That there is clear and convincing evidence that the person is
6 a person with mental illness, the court must order that the person be
7 committed to the custody of the Administrator of the Division of
8 Mental Health and Developmental Services of the Department of
9 Health and Human Services until the person is discharged or
10 conditionally released therefrom in accordance with NRS 178.467 to
11 178.471, inclusive.

12 ➔ The court shall issue its finding within 90 days after the
13 defendant is acquitted.

14 3. The Administrator shall make the reports and the court shall
15 proceed in the manner provided in NRS 178.467 to 178.471,
16 inclusive.

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

26 5. As used in this section, unless the context otherwise
27 requires:

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

30 (b) "Forensic facility" means a secure facility of the Division of
31 Mental Health and Developmental Services of the Department of
32 Health and Human Services for offenders and defendants with
33 mental disorders. The term includes, without limitation, Lakes
34 Crossing Center.

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

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

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

40 178.425 1. If the court finds the defendant incompetent, and
41 dangerous to himself or herself or to society and that commitment is
42 required for a determination of the defendant's ability to receive
43 treatment to competency and to attain competence, the judge shall
44 order the sheriff to convey the defendant forthwith, together with a
45 copy of the complaint, the commitment and the physicians'



1 certificate, if any, into the custody of the Administrator or the
2 Administrator's designee for detention and treatment at a division
3 facility that is secure. The order may include the involuntary
4 administration of medication if appropriate for treatment to
5 competency.

6 2. The defendant must be held in such custody until a court
7 orders the defendant's release or until the defendant is returned for
8 trial or judgment as provided in NRS 178.450, 178.455 and
9 178.460.

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

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

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

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



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1 7. As used in this section, “National Instant Criminal
2 Background Check System” has the meaning ascribed to it in
3 NRS 179A.062.

4 **Sec. 4.1.** Chapter 179A of NRS is hereby amended by adding
5 thereto a new section to read as follows:

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

9 **Sec. 4.2.** NRS 179A.010 is hereby amended to read as
10 follows:

11 179A.010 As used in this chapter, unless the context otherwise
12 requires, the words and terms defined in NRS 179A.020 to
13 179A.073, inclusive, *and section 4.1 of this act* have the meanings
14 ascribed to them in those sections.

15 **Sec. 4.3.** NRS 179A.075 is hereby amended to read as
16 follows:

17 179A.075 1. The Central Repository for Nevada Records of
18 Criminal History is hereby created within the Records and
19 Technology Division of the Department.

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

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

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

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

32 (a) Through an electronic network;

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

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

35 ~~within the period prescribed by the Director of the Department.~~
36 *60 days after the date of the disposition of the case.* If an agency
37 has submitted a record regarding the arrest of a person who is later
38 determined by the agency not to be the person who committed the
39 particular crime, the agency shall, immediately upon making that
40 determination, so notify the Division. The Division shall delete all
41 references in the Central Repository relating to that particular arrest.

42 4. The Division shall, in the manner prescribed by the Director
43 of the Department:

44 (a) Collect, maintain and arrange all information submitted to it
45 relating to:



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1 (1) Records of criminal history; and
2 (2) The genetic markers of a biological specimen of a person
3 who is convicted of an offense listed in subsection 4 of
4 NRS 176.0913.

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

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

11 5. The Division may:

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

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

17 (c) Request of and receive from the Federal Bureau of
18 Investigation information on the background and personal history of
19 any person whose record of fingerprints the Central Repository
20 submits to the Federal Bureau of Investigation and:

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

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

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

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

34 (5) About whom any agency of the State of Nevada or any
35 political subdivision thereof is authorized by law to have accurate
36 personal information for the protection of the agency or the persons
37 within its jurisdiction.

38 ➤ To request and receive information from the Federal Bureau of
39 Investigation concerning a person pursuant to this subsection, the
40 Central Repository must receive the person's complete set of
41 fingerprints from the agency or political subdivision and submit the
42 fingerprints to the Federal Bureau of Investigation for its report.

43 6. The Central Repository shall:

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



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

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

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

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

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

11 (3) Is employed by a county school district, charter school or
12 private school,

13 and notify the superintendent of each county school district, the
14 governing body of each charter school and the Superintendent of
15 Public Instruction, or the administrator of each private school, as
16 appropriate, if the investigation of the Central Repository indicates
17 that the person has been convicted of a violation of NRS 200.508,
18 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or
19 any offense involving moral turpitude.

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

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

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

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

38 (f) Investigate the criminal history of each person who submits
39 fingerprints or has fingerprints submitted pursuant to NRS 62B.270,
40 424.031, 427A.735, 432A.170, 433B.183, 449.122 or 449.123.

41 (g) On or before July 1 of each year, prepare and present to the
42 Governor a printed annual report containing the statistical data
43 relating to crime received during the preceding calendar year.
44 Additional reports may be presented to the Governor throughout the



1 year regarding specific areas of crime if they are approved by the
2 Director of the Department.

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

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

13 7. The Central Repository may:

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

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

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

30 8. As used in this section:

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

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

38 (2) The fingerprints, voiceprint, retina image and iris image
39 of a person.

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



1 **Sec. 4.5.** NRS 179A.163 is hereby amended to read as
2 follows:

3 179A.163 1. Upon receiving a record transmitted pursuant to
4 NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310,
5 the Central Repository ~~shall~~ :

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

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

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

16 (a) The basis for the adjudication reported in the record no
17 longer exists;

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

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

24 3. To the extent authorized by federal law, if the record
25 concerning the petitioner was transmitted to the Central Repository
26 pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or
27 433A.310, the petitioner may not file a petition pursuant to
28 subsection 2 until 3 years after the date of the order transmitting the
29 record to the Central Repository.

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

31 (a) Filed in the court which made the adjudication or finding
32 pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or
33 433A.310; and

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

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

38 6. The court shall grant the petition and issue the order
39 described in subsection 2 if the court finds that the petitioner has
40 established that:

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



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

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

6 7. Except as otherwise provided in this subsection, the
7 petitioner must establish the provisions of subsection 6 by a
8 preponderance of the evidence. If the adjudication or finding
9 concerning the petitioner was made pursuant to NRS 159.0593 or
10 433A.310, the petitioner must establish the provisions of subsection
11 6 by clear and convincing evidence.

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

16 9. Within 5 business days after receiving a record of an order
17 transmitted pursuant to subsection 8, the Central Repository shall
18 take reasonable steps to ensure that information concerning the
19 adjudication or finding made pursuant to NRS 159.0593, 174.035,
20 175.533, 175.539, 178.425 or 433A.310 is removed from the
21 National Instant Criminal Background Check System **††** and the
22 *National Crime Information Center, if applicable.*

23 10. If the Central Repository fails to remove a record as
24 provided in subsection 9, the petitioner may bring an action to
25 compel the removal of the record. If the petitioner prevails in the
26 action, the court may award the petitioner reasonable attorney's fees
27 and costs incurred in bringing the action.

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

31 **Sec. 4.6.** NRS 179A.165 is hereby amended to read as
32 follows:

33 179A.165 1. Any record described in NRS 179A.163 is
34 confidential and is not a public book or record within the meaning
35 of NRS 239.010. A person may not use the record for any purpose
36 other than for *a purpose related to criminal justice, including,*
37 *without limitation,* inclusion in the appropriate database of the
38 National Instant Criminal Background Check System **††** and the
39 *National Crime Information Center, if applicable. The Central*
40 *Repository may disclose the record to any agency of criminal*
41 *justice.*

42 2. If a person or governmental entity is required to transmit,
43 report or take any other action concerning a record pursuant to NRS
44 159.0593, 174.035, 175.533, 175.539, 178.425, 179A.163 or



1 433A.310, no action for damages may be brought against the person
2 or governmental entity for:

3 (a) Transmitting or reporting the record or taking any other
4 required action concerning the record;

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

7 (c) Delaying the transmission or reporting of the record or
8 delaying in taking any other required action concerning the record;
9 or

10 (d) Transmitting or reporting an inaccurate or incomplete
11 version of the record or taking any other required action concerning
12 an inaccurate or incomplete version of the record.

13 **Sec. 4.7.** NRS 179A.167 is hereby amended to read as
14 follows:

15 179A.167 1. The Central Repository shall permit a person
16 who is or believes he or she may be the subject of information
17 relating to records of mental health held by the Central Repository
18 to inspect and correct any information contained in such records.

19 2. The Central Repository shall adopt regulations and make
20 available necessary forms to permit inspection, review and
21 correction of information relating to records of mental health by
22 those persons who are the subjects thereof. The regulations must
23 specify:

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

26 (b) The reasonable charges or fees, if any, for inspecting
27 records.

28 3. The Director of the Department shall adopt regulations
29 governing:

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

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

36 (c) The dissemination of corrected information to those persons
37 or agencies which have previously received inaccurate or
38 incomplete information; and

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

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

44 (a) Transmitted to the Central Repository pursuant to NRS
45 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; or



1 (b) Transmitted to the National Instant Criminal Background
2 Check System *or the National Crime Information Center* pursuant
3 to NRS 179A.163.

4 **Sec. 5.** NRS 49.213 is hereby amended to read as follows:

5 49.213 There is no privilege pursuant to NRS 49.209 or
6 49.211:

7 1. For communications relevant to an issue in a proceeding to
8 hospitalize the patient for mental illness, if the psychologist in the
9 course of diagnosis or treatment has determined that the patient
10 requires hospitalization.

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

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

16 ~~13.1~~ 4. If disclosure is otherwise required by state or federal
17 law.

18 ~~14.1~~ 5. For communications relevant to an issue in a
19 proceeding to determine the validity of a will of the patient.

20 ~~15.1~~ 6. If there is an immediate threat that the patient will harm
21 himself or herself or other persons.

22 ~~16.1~~ 7. For communications made in the course of a court-
23 ordered examination of the condition of a patient with respect to the
24 specific purpose of the examination unless the court orders
25 otherwise.

26 ~~17.1~~ 8. For communications relevant to an issue in an
27 investigation or hearing conducted by the Board of Psychological
28 Examiners if the treatment of the patient is an element of that
29 investigation or hearing.

30 ~~18.1~~ 9. For communications relevant to an issue in a
31 proceeding relating to the abuse or neglect of a person with a
32 disability or a person who is legally incompetent.

33 **Sec. 6.** NRS 49.245 is hereby amended to read as follows:

34 49.245 There is no privilege under NRS 49.225 or 49.235:

35 1. For communications relevant to an issue in proceedings to
36 hospitalize the patient for mental illness, if the doctor in the course
37 of diagnosis or treatment has determined that the patient is in need
38 of hospitalization.

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

41 3. As to communications made in the course of a court-ordered
42 examination of the condition of a patient with respect to the
43 particular purpose of the examination unless the court orders
44 otherwise.



1 ~~13-1~~ 4. As to written medical or hospital records relevant to an
2 issue of the condition of the patient in any proceeding in which the
3 condition is an element of a claim or defense.

4 ~~14-1~~ 5. In a prosecution or mandamus proceeding under chapter
5 441A of NRS.

6 ~~15-1~~ 6. As to any information communicated to a physician in
7 an effort unlawfully to procure a dangerous drug or controlled
8 substance, or unlawfully to procure the administration of any such
9 drug or substance.

10 ~~16-1~~ 7. As to any written medical or hospital records which are
11 furnished in accordance with the provisions of NRS 629.061.

12 ~~17-1~~ 8. As to records that are required by chapter 453 of NRS
13 to be maintained.

14 ~~18-1~~ 9. If the services of the physician are sought or obtained to
15 enable or aid a person to commit or plan to commit fraud or any
16 other unlawful act in violation of any provision of chapter 616A,
17 616B, 616C, 616D or 617 of NRS which the person knows or
18 reasonably should know is fraudulent or otherwise unlawful.

19 **Sec. 7.** NRS 159.0593 is hereby amended to read as follows:

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

33 2. As used in this section:

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

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

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

40 (2) Lacks the capacity to contract or manage his or her own
41 affairs.

42 **Sec. 8.** NRS 202.254 is hereby amended to read as follows:

43 202.254 1. ~~1A~~ *Except as otherwise provided in subsection*
44 *6, a private person who wishes to transfer a firearm to another*
45 *person ~~may~~ shall, before transferring the firearm, request that a*



1 *licensed dealer submit a request to* the Central Repository for
2 Nevada Records of Criminal History *to* perform a background check
3 on the person who wishes to acquire the firearm.

4 2. The person who requests the ~~{information}~~ *background*
5 *check* pursuant to subsection 1 ~~{shall}~~ :

6 (a) *Shall* provide the ~~{Central Repository}~~ *licensed dealer* with
7 identifying information about the person who wishes to acquire the
8 firearm ~~{for submission to the Central Repository}~~.

9 (b) *Except as otherwise provided in this paragraph, shall not*
10 *transfer the firearm to the person who wishes to acquire the*
11 *firearm unless the person has received notification from the*
12 *licensed dealer that the information available to the Central*
13 *Repository indicates that the receipt of a firearm by the person*
14 *who wishes to acquire the firearm would not violate a state or*
15 *federal law. If the person who requests the background check has*
16 *not received notification from the licensed dealer regarding the*
17 *request by the close of business on the third business day after*
18 *making the request, the person may transfer the firearm to the*
19 *person who wishes to acquire the firearm without receiving*
20 *notification from the licensed dealer.*

21 3. Upon receiving a request from a ~~{private person}~~ *licensed*
22 *dealer* pursuant to subsection 1 and the identifying information
23 required pursuant to subsection 2, the Central Repository shall
24 within ~~{5}~~ 3 business days after receiving the request:

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

27 (b) Notify the ~~{person who requests the information}~~ *licensed*
28 *dealer* whether the information available to the Central Repository
29 indicates that the receipt of a firearm by the person who wishes to
30 acquire the firearm would violate a state or federal law.

31 4. If the ~~{person who requests the information}~~ *licensed dealer*
32 does not receive notification from the Central Repository regarding
33 the request within ~~{5}~~ 3 business days after making the request, the
34 *licensed dealer shall, not later than the close of business on that*
35 *third business day, inform the person who requested the*
36 *background check that he or she* may presume that the receipt of a
37 firearm by the person who wishes to acquire the firearm would not
38 violate a state or federal law.

39 5. The Central Repository may *not* charge a ~~{reasonable}~~ fee
40 for performing a background check and notifying ~~{a person}~~ *the*
41 *licensed dealer* of the results of the background check pursuant to
42 this section.

43 6. ~~{The failure of a person to request the Central Repository to~~
44 ~~perform a background check pursuant to this section before~~
45 ~~transferring a firearm to another person does not give rise to any~~



1 ~~civil cause of action.~~ The provisions of this section do not apply
2 to:

3 (a) A transfer of a firearm to a person who is a holder of a
4 permit to carry a concealed firearm issued pursuant to the
5 provisions of NRS 202.3653 to 202.369, inclusive.

6 (b) A transfer of an antique firearm, as defined in 18 U.S.C. §
7 921, or a curio or relic, as defined in 27 C.F.R. 478.11.

8 (c) A transfer of a firearm that is a gift or loan between family
9 members who are related by consanguinity or affinity within the
10 second degree.

11 (d) A transfer of a firearm that occurs by operation of law or
12 because of the death of a person for whom the person transferring
13 the firearm is an executor or administrator of an estate or a
14 trustee of a trust created in a will.

15 (e) A transfer of a firearm that is temporary and occurs while
16 in the home of the person to whom the firearm is transferred if the
17 person to whom the firearm is transferred:

18 (1) Is not prohibited from possessing a firearm; and

19 (2) Reasonably believes that possession of the firearm is
20 necessary to prevent imminent death or serious bodily injury to the
21 person.

22 (f) A temporary transfer of possession of a firearm without
23 transfer of ownership or title to ownership of the firearm, if such
24 transfer takes place:

25 (1) At a shooting range located in or on any premises
26 owned or occupied by a duly incorporated organization organized
27 for conservation purposes or to foster proficiency with firearms;

28 (2) At a target firearm shooting competition under the
29 auspices of, or approved by, a state agency or a nonprofit
30 organization; or

31 (3) While hunting, fishing, target shooting or trapping if:

32 (I) The hunting, fishing, target shooting or trapping is
33 legal in all places where the person to whom the firearm is
34 transferred possesses the firearm; and

35 (II) The person to whom the firearm is transferred holds
36 all licenses or permits required for such hunting, fishing, target
37 shooting or trapping.

38 (g) A transfer of a firearm that is made to facilitate the repair
39 or maintenance of the firearm, if the person to whom the firearm
40 is transferred is not prohibited from possessing a firearm.

41 (h) A temporary transfer of a firearm that occurs while in the
42 presence of the owner of the firearm.

43 (i) A temporary transfer of a firearm for not more than 72
44 hours. A person who transfers a firearm pursuant to this



1 paragraph is liable for damages proximately caused by any
2 unlawful use of the firearm.

3 (j) A transfer of a firearm from a person serving in the Armed
4 Forces of the United States to an immediate family member if the
5 person transferring the firearm will be deployed outside of the
6 United States within 30 days after the transfer.

7 (k) A temporary transfer of a firearm from a person to a
8 mental health professional or to the person's physician if the
9 mental health professional, the physician or the person believes
10 the transfer is necessary to protect the health or safety of the
11 person or others.

12 7. A person who transfers a firearm to another person in
13 violation of this section:

14 (a) Is guilty of a gross misdemeanor; and

15 (b) Is prohibited from possessing a firearm for a period of 2
16 years after the date of the conviction. If the convicted person
17 possesses a firearm during the 2-year period in violation of this
18 paragraph, the person is guilty of a gross misdemeanor and is
19 prohibited from possessing a firearm for an additional period of 2
20 years after the date of the conviction.

21 8. As used in this section:

22 (a) "Background check" includes a report from the National
23 Instant Criminal Background Check System.

24 (b) "Licensed dealer" means a person who holds a license as a
25 dealer in firearms issued pursuant to the provisions of 18 U.S.C. §
26 923.

27 (c) "Mental health professional" has the meaning ascribed to
28 it in section 13 of this act.

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

31 **Sec. 9.** NRS 202.360 is hereby amended to read as follows:

32 202.360 1. A person shall not own or have in his or her
33 possession or under his or her custody or control any firearm if the
34 person:

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

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

41 (c) Is an unlawful user of, or addicted to, any controlled
42 substance ~~or~~; or

43 (d) Is otherwise prohibited by federal law from having a
44 firearm in his or her possession or under his or her custody or
45 control.



1 ↪ A person who violates the provisions of this subsection is guilty
2 of a category B felony and shall be punished by imprisonment in the
3 state prison for a minimum term of not less than 1 year and a
4 maximum term of not more than 6 years, and may be further
5 punished by a fine of not more than \$5,000.

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

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

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

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

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

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

18 ↪ A person who violates the provisions of this subsection is guilty
19 of a category D felony and shall be punished as provided in
20 NRS 193.130.

21 3. As used in this section:

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

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

26 **Sec. 10.** NRS 202.362 is hereby amended to read as follows:

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

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

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

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

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

41 2. A person who violates the provisions of subsection 1 is
42 guilty of a category B felony and shall be punished by imprisonment
43 in the state prison for a minimum term of not less than 1 year and a
44 maximum term of not more than 10 years, and may be further
45 punished by a fine of not more than \$10,000.



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

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

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

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

16 **Sec. 11.** NRS 433A.310 is hereby amended to read as follows:

17 433A.310 1. Except as otherwise provided in NRS
18 432B.6076 and 432B.6077, if the district court finds, after
19 proceedings for the involuntary court-ordered admission of a person
20 to a public or private mental health facility:

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

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

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



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1 court specific reasons why further treatment would be in the
2 person's own best interests.

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

10 4. If the court issues an order involuntarily admitting a person
11 to a public or private mental health facility pursuant to this section,
12 the court shall, notwithstanding the provisions of NRS 433A.715,
13 cause, *within 5 business days after issuing the order*, on a form
14 prescribed by the Department of Public Safety, a record of ~~such~~
15 *the* order 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 ~~and the National Crime Information Center~~.

20 5. As used in this section ~~and~~ :

21 (a) *“National Crime Information Center” has the meaning*
22 *ascribed to it in section 4.1 of this act.*

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

25 **Sec. 12.** NRS 436.123 is hereby amended to read as follows:

26 436.123 The Division is designated as the official state agency
27 responsible for developing and administering preventive and
28 outpatient mental health services, subject to administrative
29 supervision by the Director of the Department. It shall function in
30 the following areas:

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

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

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

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

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



1 **Sec. 13.** 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 social worker who:*

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

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

41 (3) *Is employed by the Division of Mental Health and*
42 *Developmental Services of the Department of Health and Human*
43 *Services.*

44 (c) *A registered nurse who:*



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

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