

Amendment No. 209

Senate Amendment to Senate Bill No. 240	(BDR 14-955)
Proposed by: Senator Woodhouse	
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.



SENATE BILL NO. 240—SENATORS ROBERSON, HARDY, BROWER, LIPPARELLI, FARLEY; GUSTAVSON, HAMMOND, HARRIS, KIECKHEFER AND SETTELMAYER

MARCH 10, 2015

JOINT SPONSORS: ASSEMBLYMEN WHEELER,
DICKMAN AND PAUL ANDERSON

Referred to Committee on Judiciary

SUMMARY—Makes certain changes relating to public safety. (BDR 14-955)

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

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

AN ACT relating to public safety; requiring a peace officer to arrest certain persons; 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; revising provisions governing the surrender, sale or transfer of any firearm by an adverse party subject to an extended order for protection against domestic violence; requiring the Central Repository, upon request, to conduct a background check without charge on a person who wishes to acquire a firearm; prohibiting certain persons from having possession, custody or control of a firearm; prohibiting certain persons from selling a firearm under certain circumstances; revising the functions of the 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 peace officer, unless mitigating circumstances exist, to arrest a
2 person when the peace officer has probable cause to believe that the person to be

3 arrested has, within the preceding 24 hours, committed a battery constituting domestic
4 violence. (NRS 171.137) Section 1 of this bill similarly requires a peace officer to arrest a
5 person when the peace officer has probable cause to believe that a person has possession,
6 custody or control of a firearm in violation of an extended order for protection against
7 domestic violence.

8 Existing law requires a court to transmit to the Central Repository for Nevada Records
9 of Criminal History a record of any court order, judgment, plea or verdict concerning the
10 involuntary admission of a person to a mental health facility, the appointment of a guardian
11 for a person with a mental defect, a finding that a person is incompetent to stand trial, a
12 verdict acquitting a defendant by reason of insanity or a plea or finding of guilty but mentally
13 ill, along with a statement that the record is being transmitted for inclusion in all appropriate
14 databases of the National Instant Criminal Background Check System. (NRS 159.0593,
15 174.035, 175.533, 175.539, 178.425, 433A.310) ~~Sections 1-4, 13~~ 2-5, 14 and 17 18 of this
16 bill require such records to be transmitted to the Central Repository within 5 business days.

17 Existing law requires the inclusion, correction and removal of information in records of
18 criminal history in each appropriate database of the National Instant Criminal Background
19 Check System. (NRS 179A.163, 179A.165, 179A.167, 433A.310) ~~Sections 18-19~~ 9-11 and
20 17 18 of this bill also authorize or require, as appropriate, the inclusion, correction and
21 removal of such information in each appropriate database of the National Crime Information
22 Center. ~~Section 14~~ 6 of this bill defines “National Crime Information Center” to mean the
23 computerized information system created and maintained by the Federal Bureau of
24 Investigation pursuant to 28 U.S.C. § 534.

25 Existing law requires each agency of criminal justice to submit information relating to
26 records of criminal history within the period described by the Director of the Department of
27 Public Safety. (NRS 179A.075) ~~Section 17~~ 8 of this bill requires the submission of such
28 information within 60 days after the date of the conviction.

29 Existing law authorizes a court to include in an extended order for protection against
30 domestic violence: (1) a requirement that the adverse party surrender, sell or transfer
31 any firearm in his or her possession or under his or her custody or control; and (2) a
32 prohibition on the adverse party against possessing or having under his or her custody
33 or control any firearm while the order is in effect. (NRS 33.031) Section 11.5 of this bill
34 instead requires the court to include such provisions in an extended order for protection
35 against domestic violence. Existing law also authorizes the court to include in such an
36 extended order a limited exception from the prohibition to possess or have under the
37 adverse party’s custody or control any firearm if the adverse party establishes certain
38 facts relating to the necessity of using or possessing a firearm for the purposes of his or
39 her employment. (NRS 33.031) Section 11.5 provides that the adverse party must also
40 establish that he or she only uses or possesses the firearm in the course of his or her
41 employment. Additionally, existing law provides that an adverse party who violates any
42 provision included in an extended order for protection against domestic violence
43 concerning the surrender, sale, transfer, possession, custody or control of a firearm is
44 guilty of a gross misdemeanor. (NRS 33.031) Section 11.5 revises this penalty and
45 provides that such a person is guilty of a category B felony.

46 Existing law authorizes a private person who wishes to transfer a firearm to another
47 person to request the Central Repository to perform a background check on the person who
48 wishes to acquire the firearm. (NRS 202.254) ~~Section 14~~ 15 of this bill prohibits the Central
49 Repository from charging a fee to perform a background check for such a transfer. ~~Section~~
50 15 further provides immunity from civil and criminal liability to a person who does not
51 request a background check or who requests a background check for any act or omission that
52 was taken in good faith and without malicious intent. Finally, ~~section 14~~ 15 allows the
53 Director of the Department of Public Safety to request an allocation from the Contingency
54 Account in the State General Fund if necessary to cover the cost of providing background
55 checks without the imposition of a fee.

56 Existing law prohibits a person who has been adjudicated as mentally ill, has been
57 committed to any mental health facility or is illegally or unlawfully in the United States from
58 possessing or having custody or control of a firearm. (NRS 202.360) ~~Section 14~~ 16 of this
59 bill also prohibits a person who has entered a plea of guilty but mentally ill, has been found
60 guilty but mentally ill, ~~14~~ has been acquitted by reason of insanity or is currently subject

61 to an extended order for protection against domestic violence in this State or an
 62 equivalent order in another state from possessing or having custody or control of a firearm.

63 Existing law prohibits a person from selling or otherwise disposing of any firearm or
 64 ammunition to another person if he or she has actual knowledge that the other person: (1) is
 65 under indictment for, or has been convicted of, a felony; (2) is a fugitive from justice; (3) has
 66 been adjudicated as mentally ill or has been committed to a mental health facility; or (4) is
 67 illegally or unlawfully in the United States. (NRS 202.362) ~~Section 17~~ of this bill
 68 prohibits a person from selling, transferring or otherwise disposing of any firearm or
 69 ammunition to another person or purchasing a firearm on behalf of or for another person with
 70 the intent to transfer the firearm to that person if he or she has reasonable cause to believe that
 71 the other person meets any of those listed conditions, if the other person is otherwise
 72 prohibited from possessing a firearm or if the other person is a member of a criminal gang.

73 Existing law provides that a patient has a privilege to refuse to disclose and to prevent
 74 any other person from disclosing confidential communications between the patient and the
 75 patient's psychologist or doctor. (NRS 49.209, 49.225) ~~Sections 12 and 13~~ of this
 76 bill provide exceptions to the privilege for certain determinations which are now required
 77 pursuant to this bill.

78 Existing law: (1) designates the Department of Health and Human Services as the official
 79 state agency for developing and administering outpatient mental health services; and (2)
 80 requires the Department to perform certain functions relating to mental health. (NRS
 81 433C.130) ~~Section 19~~ of this bill requires the Department to also assist and consult with
 82 local governments and all local law enforcement agencies in this State in providing
 83 community mental health services.

84 Existing law imposes various requirements and duties on certain health care
 85 professionals. (Chapter 629 of NRS) ~~Section 20~~ of this bill provides that if a patient of a
 86 mental health professional makes an explicit threat of imminent serious physical harm or
 87 death to a person, and the mental health professional believes the patient has the intent and
 88 ability to carry out the threat, the mental health professional must notify the threatened person
 89 and the appropriate law enforcement agency. A mental health professional who exercises
 90 reasonable care in determining whether or not to provide notice of such a threat is not subject
 91 to civil or criminal liability or disciplinary action by a professional licensing board for
 92 disclosing confidential or privileged information or for any damages caused by the actions of
 93 a patient.

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

1 **Section 1. NRS 171.137 is hereby amended to read as follows:**

2 171.137 1. Except as otherwise provided in subsection 2, whether or not a
 3 warrant has been issued, a peace officer shall, unless mitigating circumstances
 4 exist, arrest a person when the peace officer has probable cause to believe that the
 5 person to be arrested has ~~1, within 1~~:

6 (a) Within the preceding 24 hours, committed a battery upon his or her spouse,
 7 former spouse, any other person to whom he or she is related by blood or marriage,
 8 a person with whom he or she is or was actually residing, a person with whom he or
 9 she has had or is having a dating relationship, a person with whom he or she has a
 10 child in common, the minor child of any of those persons or his or her minor child

11 ~~11~~ or
 12 (b) Possession, custody or control of a firearm in violation of paragraph (d)
 13 of subsection 1 of NRS 202.360.

14 2. If the peace officer has probable cause to believe that a battery described in
 15 subsection 1 was a mutual battery, the peace officer shall attempt to determine
 16 which person was the primary physical aggressor. If the peace officer determines
 17 that one of the persons who allegedly committed a battery was the primary physical
 18 aggressor involved in the incident, the peace officer is not required to arrest any

1 other person believed to have committed a battery during the incident. In
2 determining whether a person is a primary physical aggressor for the purposes of
3 this subsection, the peace officer shall consider:

- 4 (a) Prior domestic violence involving either person;
- 5 (b) The relative severity of the injuries inflicted upon the persons involved;
- 6 (c) The potential for future injury;
- 7 (d) Whether one of the alleged batteries was committed in self-defense; and
- 8 (e) Any other factor that may help the peace officer decide which person was
9 the primary physical aggressor.

10 3. A peace officer shall not base a decision regarding whether to arrest a
11 person pursuant to this section on the peace officer's perception of the willingness
12 of a victim or a witness to the incident to testify or otherwise participate in related
13 judicial proceedings.

14 4. As used in this section, "dating relationship" means frequent, intimate
15 associations primarily characterized by the expectation of affectional or sexual
16 involvement. The term does not include a casual relationship or an ordinary
17 association between persons in a business or social context.

18 ~~Section 1~~ **Sec. 2.** NRS 174.035 is hereby amended to read as follows:

19 174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill
20 or, with the consent of the court, nolo contendere. The court may refuse to accept a
21 plea of guilty or guilty but mentally ill.

22 2. If a plea of guilty or guilty but mentally ill is made in a written plea
23 agreement, the agreement must be in substantially the form prescribed in NRS
24 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall
25 not accept such a plea or a plea of nolo contendere without first addressing the
26 defendant personally and determining that the plea is made voluntarily with
27 understanding of the nature of the charge and consequences of the plea.

28 3. With the consent of the court and the district attorney, a defendant may
29 enter a conditional plea of guilty, guilty but mentally ill or nolo contendere,
30 reserving in writing the right, on appeal from the judgment, to a review of the
31 adverse determination of any specified pretrial motion. A defendant who prevails
32 on appeal must be allowed to withdraw the plea.

33 4. A plea of guilty but mentally ill must be entered not less than 21 days
34 before the date set for trial. A defendant who has entered a plea of guilty but
35 mentally ill has the burden of establishing the defendant's mental illness by a
36 preponderance of the evidence. Except as otherwise provided by specific statute, a
37 defendant who enters such a plea is subject to the same criminal, civil and
38 administrative penalties and procedures as a defendant who pleads guilty.

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

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

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

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

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

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

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

3 (a) Probation is not allowed; or

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

5 unless the plea bargain is set forth in writing and signed by the defendant, the
6 defendant's attorney, if the defendant is represented by counsel, and the prosecuting
7 attorney.

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

15 9. As used in this section:

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

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

20 ~~Sec. 2~~ **Sec. 3.** NRS 175.533 is hereby amended to read as follows:

21 175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the
22 trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all
23 of the following:

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

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

28 (c) The defendant has not established by a preponderance of the evidence that
29 the defendant is not guilty by reason of insanity pursuant to subsection 5 of NRS
30 174.035.

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

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

41 4. As used in this section:

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

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

46 ~~Sec. 3~~ **Sec. 4.** NRS 175.539 is hereby amended to read as follows:

47 175.539 1. Where on a trial a defense of insanity is interposed by the
48 defendant and the defendant is acquitted by reason of that defense, the finding of
49 the jury pending the judicial determination pursuant to subsection 2 has the same
50 effect as if the defendant were regularly adjudged insane, and the judge must:

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

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

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

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

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

10 (b) That there is clear and convincing evidence that the person is a person with
11 mental illness, the court must order that the person be committed to the custody of
12 the Administrator of the Division of Public and Behavioral Health of the
13 Department of Health and Human Services until the person is discharged or
14 conditionally released therefrom in accordance with NRS 178.467 to 178.471,
15 inclusive.

16 ↪ The court shall issue its finding within 90 days after the defendant is acquitted.

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

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

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

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

28 (b) "Forensic facility" means a secure facility of the Division of Public and
29 Behavioral Health of the Department of Health and Human Services for offenders
30 and defendants with mental disorders. The term includes, without limitation, Lakes
31 Crossing Center.

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

34 (d) "Person with mental illness" has the meaning ascribed to it in NRS
35 178.3986.

36 ~~Sec. 4~~ **Sec. 5.** NRS 178.425 is hereby amended to read as follows:

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

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

49 3. If the court finds the defendant incompetent but not dangerous to himself or
50 herself or to society, and finds that commitment is not required for a determination
51 of the defendant's ability to receive treatment to competency and to attain
52 competence, the judge shall order the defendant to report to the Administrator or
53 the Administrator's designee as an outpatient for treatment, if it might be beneficial,

1 and for a determination of the defendant's ability to receive treatment to
2 competency and to attain competence. The court may require the defendant to give
3 bail for any periodic appearances before the Administrator or the Administrator's
4 designee.

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

10 5. Whenever the defendant has been found incompetent, with no substantial
11 probability of attaining competency in the foreseeable future, and released from
12 custody or from obligations as an outpatient pursuant to paragraph (d) of subsection
13 4 of NRS 178.460, the proceedings against the defendant which were suspended
14 must be dismissed. No new charge arising out of the same circumstances may be
15 brought after a period, equal to the maximum time allowed by law for commencing
16 a criminal action for the crime with which the defendant was charged, has lapsed
17 since the date of the alleged offense.

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

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

26 ~~Sec. 5~~ **Sec. 6.** Chapter 179A of NRS is hereby amended by adding
27 thereto a new section to read as follows:

28 *"National Crime Information Center" means the computerized information*
29 *system created and maintained by the Federal Bureau of Investigation pursuant*
30 *to 28 U.S.C. § 534.*

31 ~~Sec. 6~~ **Sec. 7.** NRS 179A.010 is hereby amended to read as follows:

32 179A.010 As used in this chapter, unless the context otherwise requires, the
33 words and terms defined in NRS 179A.020 to 179A.073, inclusive, *and section 5*
34 *of this act* have the meanings ascribed to them in those sections.

35 ~~Sec. 7~~ **Sec. 8.** NRS 179A.075 is hereby amended to read as follows:

36 179A.075 1. The Central Repository for Nevada Records of Criminal
37 History is hereby created within the General Services Division of the Department.

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

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

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

44 3. Each agency of criminal justice shall submit the information relating to
45 records of criminal history that it creates, ~~to~~ issues ~~to~~ *or collects*, and any
46 information in its possession relating to the DNA profile of a person from whom a
47 biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the
48 Division. The information must be submitted to the Division:

49 (a) Through an electronic network;

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

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

52 ~~within the period prescribed by the Director of the Department~~ *60 days after*
53 *the date of the disposition of the case.* If an agency has submitted a record

1 regarding the arrest of a person who is later determined by the agency not to be the
2 person who committed the particular crime, the agency shall, immediately upon
3 making that determination, so notify the Division. The Division shall delete all
4 references in the Central Repository relating to that particular arrest.

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

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

8 (1) Records of criminal history; and

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

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

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

16 (d) Upon request, provide, in paper or electronic form, the information that is
17 contained in the Central Repository to a multidisciplinary team to review the death
18 of the victim of a crime that constitutes domestic violence organized or sponsored
19 by the Attorney General pursuant to NRS 228.495.

20 5. The Division may:

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

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

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

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

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

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

38 (4) For whom such information is required to be obtained pursuant to NRS
39 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123
40 and 449.4329; or

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

44 ➤ To request and receive information from the Federal Bureau of Investigation
45 concerning a person pursuant to this subsection, the Central Repository must
46 receive the person's complete set of fingerprints from the agency or political
47 subdivision and submit the fingerprints to the Federal Bureau of Investigation for
48 its report.

49 6. The Central Repository shall:

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

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

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

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

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

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

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

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

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

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

21 (2) Employed by a county school district, charter school or private school
22 whose fingerprints were sent previously to the Central Repository for investigation,
23 ➤ who the Central Repository's records indicate have been convicted of a violation
24 of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony
25 or any offense involving moral turpitude since the Central Repository's initial
26 investigation. The superintendent of each county school district, the governing body
27 of a charter school or the administrator of each private school, as applicable, shall
28 determine whether further investigation or action by the district, charter school or
29 private school, as applicable, is appropriate.

30 (f) Investigate the criminal history of each person who submits fingerprints or
31 has fingerprints submitted pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031,
32 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329.

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

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

42 (i) Identify and review the collection and processing of statistical data relating
43 to criminal justice and the delinquency of children by any agency identified in
44 subsection 2 and make recommendations for any necessary changes in the manner
45 of collecting and processing statistical data by any such agency.

46 7. The Central Repository may:

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

50 (b) Charge a reasonable fee for any publication or special report it distributes
51 relating to data collected pursuant to this section. The Central Repository may not
52 collect such a fee from an agency of criminal justice, any other agency dealing with
53 crime or the delinquency of children which is required to submit information

1 pursuant to subsection 2 or the State Disaster Identification Team of the Division of
2 Emergency Management of the Department. All money collected pursuant to this
3 paragraph must be used to pay for the cost of operating the Central Repository.

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

7 8. As used in this section:

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

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

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

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

15 ~~§ Sec. 8.~~ **Sec. 9.** NRS 179A.163 is hereby amended to read as follows:

16 179A.163 1. Upon receiving a record transmitted pursuant to NRS
17 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310, the Central Repository
18 shall:

19 (a) *Shall* take reasonable steps to ensure that the information reported in the
20 record is included in each appropriate database of the National Instant Criminal
21 Background Check System ~~§~~; and

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

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

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

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

31 (c) The information reported in the record must be removed from the National
32 Instant Criminal Background Check System ~~§~~ and the *National Crime*
33 *Information Center.*

34 3. To the extent authorized by federal law, if the record concerning the
35 petitioner was transmitted to the Central Repository pursuant to NRS 159.0593,
36 174.035, 175.533, 175.539, 178.425 or 433A.310, the petitioner may not file a
37 petition pursuant to subsection 2 until 3 years after the date of the order transmitting
38 the record to the Central Repository.

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

40 (a) Filed in the court which made the adjudication or finding pursuant to NRS
41 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; and

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

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

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

48 (a) The basis for the adjudication or finding made pursuant to NRS 159.0593,
49 174.035, 175.533, 175.539, 178.425 or 433A.310 concerning the petitioner no
50 longer exists;

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

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

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

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

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

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

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

24 ~~Sec. 9.~~ **Sec. 10.** NRS 179A.165 is hereby amended to read as follows:

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

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

36 (a) Transmitting or reporting the record or taking any other required action
37 concerning the record;

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

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

42 (d) Transmitting or reporting an inaccurate or incomplete version of the record
43 or taking any other required action concerning an inaccurate or incomplete version
44 of the record.

45 ~~Sec. 10.~~ **Sec. 11.** NRS 179A.167 is hereby amended to read as follows:

46 179A.167 1. The Central Repository shall permit a person who is or
47 believes he or she may be the subject of information relating to records of mental
48 health held by the Central Repository to inspect and correct any information
49 contained in such records.

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

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

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

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

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

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

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

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

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

18 (a) Transmitted to the Central Repository pursuant to NRS 159.0593, 174.035,
19 175.533, 175.539, 178.425 or 433A.310; or

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

22 **Sec. 11.5. NRS 33.031 is hereby amended to read as follows:**

23 **33.031** 1. A court ~~may~~ **shall** include in an extended order issued pursuant
24 to NRS 33.030:

25 (a) A requirement that the adverse party surrender, sell or transfer any firearm
26 in the adverse party's possession or under the adverse party's custody or control in
27 the manner set forth in NRS 33.033; and

28 (b) A ~~prohibition on~~ **statement that, unless the provisions of subsection 2**
29 **apply**, the adverse party ~~against~~ **is prohibited from** possessing or having under the
30 adverse party's custody or control any firearm while the order is in effect ~~++~~
31 **pursuant to NRS 202.360.**

32 2. ~~In determining whether to include the provisions set forth in subsection 1~~
33 ~~in an extended order, the court must consider, without limitation, whether the~~
34 ~~adverse party:~~

35 ~~— (a) Has a documented history of domestic violence;~~

36 ~~— (b) Has used or threatened to use a firearm to injure or harass the applicant, a~~
37 ~~minor child or any other person; and~~

38 ~~— (c) Has used a firearm in the commission or attempted commission of any~~
39 ~~crime.~~

40 3. ~~If a court includes the provisions set forth in subsection 1 in an extended~~
41 ~~order, the~~ **The** court may include **in an extended order** a limited exception from
42 the prohibition to possess or have under the adverse party's custody or control any
43 firearm if the adverse party establishes that:

44 (a) The adverse party is employed by an employer who requires the adverse
45 party to use or possess a firearm as an integral part of the adverse party's
46 employment; ~~and~~

47 **The adverse party only uses or possesses the firearm in the course of such**
48 **employment; and**

49 **(c) The employer will provide for the storage of any such firearm during any**
50 **period when the adverse party is not working.**

51 ~~++~~ **3.** An adverse party who violates any provision included in an extended
52 order pursuant to this section concerning the surrender, sale, transfer, possession,
53 custody or control of a firearm is guilty of a ~~gross misdemeanor. If the court~~

1 ~~includes any such provision in an extended order, the~~ category B felony and shall
 2 be punished by imprisonment in the state prison for a minimum term of not less
 3 than 1 year and a maximum term of not more than 6 years, and may be further
 4 punished by a fine of not more than \$5,000. The court must include in the order a
 5 statement that violation of such a provision in the order is a ~~gross misdemeanor.~~
 6 category B felony and shall be punished by imprisonment in the state prison for a
 7 minimum term of not less than 1 year and a maximum term of not more than 6
 8 years, and may be further punished by a fine of not more than \$5,000.

9 ~~Sec. 11.~~ **Sec. 12.** NRS 49.213 is hereby amended to read as follows:

10 49.213 There is no privilege pursuant to NRS 49.209 or 49.211:

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

14 2. For communications relevant to *any determination made pursuant to NRS*
 15 *202.360.*

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

18 ~~3.~~ 4. If disclosure is otherwise required by state or federal law.

19 ~~4.~~ 5. For communications relevant to an issue in a proceeding to determine
 20 the validity of a will of the patient.

21 ~~5.~~ 6. If there is an immediate threat that the patient will harm himself or
 22 herself or other persons.

23 ~~6.~~ 7. For communications made in the course of a court-ordered
 24 examination of the condition of a patient with respect to the specific purpose of the
 25 examination unless the court orders otherwise.

26 ~~7.~~ 8. For communications relevant to an issue in an investigation or hearing
 27 conducted by the Board of Psychological Examiners if the treatment of the patient
 28 is an element of that investigation or hearing.

29 ~~8.~~ 9. For communications relevant to an issue in a proceeding relating to the
 30 abuse or neglect of a person with a disability or a person who is legally
 31 incompetent.

32 ~~Sec. 12.~~ **Sec. 13.** NRS 49.245 is hereby amended to read as follows:

33 49.245 There is no privilege under NRS 49.225 or 49.235:

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

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

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

42 ~~3.~~ 4. As to written medical or hospital records relevant to an issue of the
 43 condition of the patient in any proceeding in which the condition is an element of a
 44 claim or defense.

45 ~~4.~~ 5. In a prosecution or mandamus proceeding under chapter 441A of
 46 NRS.

47 ~~5.~~ 6. As to any information communicated to a physician in an effort
 48 unlawfully to procure a dangerous drug or controlled substance, or unlawfully to
 49 procure the administration of any such drug or substance.

50 ~~6.~~ 7. As to any written medical or hospital records which are furnished in
 51 accordance with the provisions of NRS 629.061.

52 ~~7.~~ 8. As to records that are required by chapter 453 of NRS to be
 53 maintained.

1 ~~8:~~ 9. If the services of the physician are sought or obtained to enable or aid
2 a person to commit or plan to commit fraud or any other unlawful act in violation of
3 any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS which the person
4 knows or reasonably should know is fraudulent or otherwise unlawful.

5 ~~Sec. 13:~~ **Sec. 14.** NRS 159.0593 is hereby amended to read as follows:

6 159.0593 1. If the court orders a general guardian appointed for a proposed
7 ward, the court shall determine, by clear and convincing evidence, whether the
8 proposed ward is a person with a mental defect who is prohibited from possessing a
9 firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding
10 pursuant to this section that the proposed ward is a person with a mental defect, the
11 court shall include the finding in the order appointing the guardian and cause ,
12 *within 5 business days after issuing the order*, a record of the order to be
13 transmitted to the Central Repository for Nevada Records of Criminal History,
14 along with a statement indicating that the record is being transmitted for inclusion
15 in each appropriate database of the National Instant Criminal Background Check
16 System.

17 2. As used in this section:

18 (a) “National Instant Criminal Background Check System” has the meaning
19 ascribed to it in NRS 179A.062.

20 (b) “Person with a mental defect” means a person who, as a result of marked
21 subnormal intelligence, mental illness, incompetence, condition or disease, is:

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

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

24 ~~Sec. 14:~~ **Sec. 15.** NRS 202.254 is hereby amended to read as follows:

25 202.254 1. A private person who wishes to transfer a firearm to another
26 person may, before transferring the firearm, request that the Central Repository for
27 Nevada Records of Criminal History perform a background check on the person
28 who wishes to acquire the firearm.

29 2. The person who requests the information pursuant to subsection 1 shall
30 provide the Central Repository with identifying information about the person who
31 wishes to acquire the firearm.

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

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

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

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

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

47 6. ~~The failure of a person to request the Central Repository to perform a~~
48 ~~background check pursuant to this section before transferring a firearm to another~~
49 ~~person does not give rise to any civil cause of action.~~ *A private person who*
50 *transfers a firearm to another person is immune from civil liability for failing to*
51 *request a background check pursuant to this section or for any act or omission*
52 *relating to a background check requested pursuant to this section if the act or*
53 *omission was taken in good faith and without malicious intent.*

1 **7. The Director of the Department of Public Safety may request an**
 2 **allocation from the Contingency Account pursuant to NRS 353.266, 353.268 and**
 3 **353.269 to cover the costs incurred by the Department to carry out the provisions**
 4 **of subsection 5 of this section.**

5 ~~Sec. 15.~~ **Sec. 16.** NRS 202.360 is hereby amended to read as follows:

6 202.360 1. A person shall not own or have in his or her possession or under
 7 his or her custody or control any firearm if the person:

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

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

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

14 **(d) Except as otherwise provided in NRS 33.031, is currently subject to an**
 15 **extended order for protection against domestic violence pursuant to NRS 33.017**
 16 **to 33.100, inclusive, or an equivalent order in another state; or**

17 **(e) Is otherwise prohibited by federal law from having a firearm in his or her**
 18 **possession or under his or her custody or control.**

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

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

25 (a) Has been adjudicated as mentally ill or has been committed to any mental
 26 health facility ~~or~~ **by a court of this State, any other state or the United States;**

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

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

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

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

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

36 3. As used in this section:

37 (a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. §
 38 802(6).

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

41 ~~Sec. 16.~~ **Sec. 17.** NRS 202.362 is hereby amended to read as follows:

42 202.362 1. Except as otherwise provided in subsection 3, a person within
 43 this State shall not sell, **transfer** or otherwise dispose of any firearm or ammunition
 44 to another person **or purchase a firearm on behalf of or for another person with**
 45 **the intent to transfer the firearm to that person** if he or she has ~~{actual knowledge}~~
 46 **reasonable cause to believe** that the other person:

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

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

52 ~~(c) Has been adjudicated as mentally ill or has been committed to any mental~~
 53 ~~health facility; or~~

1 ~~(d) Is illegally or unlawfully in the United States,} prohibited from possessing~~
2 ~~a firearm pursuant to NRS 202.360; or~~

3 ~~(c) Is a known member of a criminal gang as defined in NRS 193.168.~~

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

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

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

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

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

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

21 433A.310 1. Except as otherwise provided in NRS 432B.6076 and
22 432B.6077, if the district court finds, after proceedings for the involuntary court-
23 ordered admission of a person:

24 (a) That there is not clear and convincing evidence that the person with respect
25 to whom the hearing was held has a mental illness or exhibits observable behavior
26 such that the person is likely to harm himself or herself or others if allowed his or
27 her liberty or if not required to participate in a program of community-based or
28 outpatient services, the court shall enter its finding to that effect and the person
29 must not be involuntarily admitted to a public or private mental health facility or to
30 a program of community-based or outpatient services.

31 (b) That there is clear and convincing evidence that the person with respect to
32 whom the hearing was held has a mental illness and, because of that illness, is
33 likely to harm himself or herself or others if allowed his or her liberty or if not
34 required to participate in a program of community-based or outpatient services, the
35 court may order the involuntary admission of the person for the most appropriate
36 course of treatment, including, without limitation, admission to a public or private
37 mental health facility or participation in a program of community-based or
38 outpatient services. The order of the court must be interlocutory and must not
39 become final if, within 30 days after the involuntary admission, the person is
40 unconditionally released pursuant to NRS 433A.390.

41 2. A court shall not admit a person to a program of community-based or
42 outpatient services unless:

43 (a) A program of community-based or outpatient services is available in the
44 community in which the person resides or is otherwise made available to the
45 person;

46 (b) The person is 18 years of age or older;

47 (c) The person has a history of noncompliance with treatment for mental
48 illness;

49 (d) The person is capable of surviving safely in the community in which he or
50 she resides with available supervision;

51 (e) The court determines that, based on the person's history of treatment for
52 mental illness, the person needs to be admitted to a program of community-based or

1 outpatient services to prevent further disability or deterioration of the person which
2 is likely to result in harm to himself or herself or others;

3 (f) The current mental status of the person or the nature of the person's illness
4 limits or negates his or her ability to make an informed decision to seek treatment
5 for mental illness voluntarily or to comply with recommended treatment for mental
6 illness;

7 (g) The program of community-based or outpatient services is the least
8 restrictive treatment which is in the best interest of the person; and

9 (h) The court has approved a plan of treatment developed for the person
10 pursuant to NRS 433A.315.

11 3. Except as otherwise provided in NRS 432B.608, an involuntary admission
12 pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6
13 months if not terminated previously by the medical director of the public or private
14 mental health facility as provided for in subsection 2 of NRS 433A.390 or by the
15 professional responsible for providing or coordinating the program of community-
16 based or outpatient services as provided for in subsection 3 of NRS 433A.390.
17 Except as otherwise provided in NRS 432B.608, at the end of the court-ordered
18 period of treatment, the Division, any mental health facility that is not operated by
19 the Division or a program of community-based or outpatient services may petition
20 to renew the involuntary admission of the person for additional periods not to
21 exceed 6 months each. For each renewal, the petition must include evidence which
22 meets the same standard set forth in subsection 1 that was required for the initial
23 period of admission of the person to a public or private mental health facility or to a
24 program of community-based or outpatient services.

25 4. Before issuing an order for involuntary admission or a renewal thereof, the
26 court shall explore other alternative courses of treatment within the least restrictive
27 appropriate environment, including involuntary admission to a program of
28 community-based or outpatient services, as suggested by the evaluation team who
29 evaluated the person, or other persons professionally qualified in the field of
30 psychiatric mental health, which the court believes may be in the best interests of
31 the person.

32 5. If the court issues an order involuntarily admitting a person to a public or
33 private mental health facility or to a program of community-based or outpatient
34 services pursuant to this section, the court shall, notwithstanding the provisions of
35 NRS 433A.715, cause, *within 5 business days after issuing the order*, on a form
36 prescribed by the Department of Public Safety, a record of ~~such~~ the order to be
37 transmitted to the Central Repository for Nevada Records of Criminal History,
38 along with a statement indicating that the record is being transmitted for inclusion
39 in each appropriate database of the National Instant Criminal Background Check
40 System.

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

43 ~~Sec. 18.~~ **Sec. 19.** NRS 433C.130 is hereby amended to read as follows:

44 433C.130 The Department is designated as the official state agency
45 responsible for developing and administering preventive and outpatient mental
46 health services. The Department shall function in the following areas:

47 1. Assisting and consulting with local health authorities, *local governments*
48 *and all law enforcement agencies in this State* in providing community mental
49 health services, which services may include prevention, rehabilitation, case finding,
50 diagnosis and treatment of persons with mental illness, and consultation and
51 education for groups and individuals regarding mental health.

52 2. Coordinating mental health functions with other state agencies.

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

3 4. Collecting and disseminating information pertaining to mental health.

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

6 ~~Sec. 19.~~ **Sec. 20.** Chapter 629 of NRS is hereby amended by adding
7 thereto a new section to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 *(b) A psychologist who is licensed to practice psychology in this State
38 pursuant to chapter 641 of NRS;*

39 *(c) A social worker who:*

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

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

43 *(3) Is employed by the Division of Public and Behavioral Health of the
44 Department of Health and Human Services;*

45 *(d) A registered nurse who:*

46 *(1) Is licensed to practice professional nursing in this State; and*

47 *(2) Holds a master's degree in psychiatric nursing or a related field;*

48 *(e) A marriage and family therapist licensed pursuant to chapter 641A of
49 NRS; and*

50 *(f) A clinical professional counselor licensed pursuant to chapter 641A of
51 NRS.*