

# Summary of Legislation

## Nevada Legislature

### 75<sup>th</sup> Session, 2009

# Nevada Supreme Court



## Chief Justice James W. Hardesty

Prepared by the  
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**September 2009**

**Nevada Supreme Court  
2009**

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Dear Friends and Colleagues;


The 75<sup>th</sup> Session of the Nevada Legislature was truly historic and produced a number of major legislative changes to the laws of Nevada. It is for that reason, and as part of the Nevada Supreme Court's public education effort, that the Court has prepared the attached Summary of Legislation.

As you can see from the numerous pieces of legislation listed in the Summary, the Legislature enacted measures that touch upon almost every aspect of our lives. Existing statutes or programs were modified and new, innovative efforts were undertaken. In all, we have listed some 200 statutes that the Court believes will have a significant impact on the citizens of our state, the legal community, and the Judicial Branch of Government.

In the coming weeks, the Court and its staff will undertake a number of continuing education sessions to assist lawyers, judges, and lay people around the state in their efforts to understand some of the major legislation adopted during the 2009 Session. Some examples include the new Foreclosure Mediation Program to be administered by the Nevada Supreme Court, the addition of new judges in the urban Judicial Districts and the opportunities those additions can create for justice in those communities, the benefits from added revenue to rural Judicial Districts to improve courthouses and local programs, the expansion of specialty courts for "gamblers" and "veterans," and the potential to amend our Constitution to create an Appellate Court and to change the method by which we select our judges. The Court hopes you find the Summary to be a useful tool in researching legislative changes and in understanding potential implications to existing statutes.

I'd like to offer special thanks to R. Ben Graham, Governmental Relations Advisor, John McCormick, Rural Courts Coordinator, Joan Neuffer, Deputy Director Legal Division, and Ron Titus, State Court Administrator, for all of their time and effort in the preparation of this Summary. Each of these dedicated public servants has contributed countless hours to this project and the Court appreciates all that they have done to help bring the Summary of the 75<sup>th</sup> Session of the Nevada Legislature to you.

Sincerely,

  
James W. Hardesty  
Chief Justice



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Henderson, NV 89074  
702-486-1100  
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outside of the 702 area code)  
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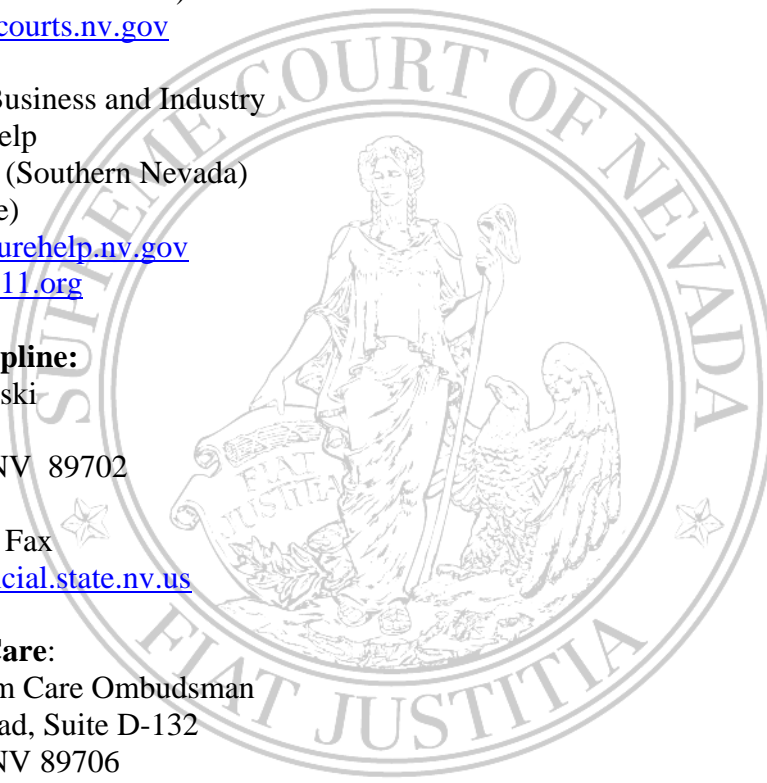
NV Dept. of Business and Industry  
Foreclosure Help  
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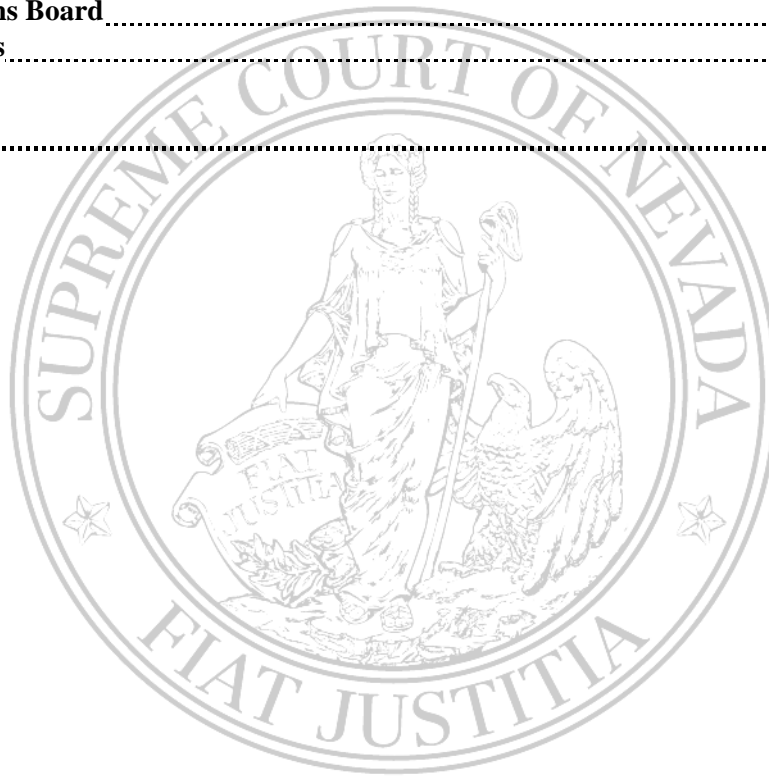
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# Civil/Government Affairs

## Mental Health

**AB6 – Existing law prescribes the procedures for emergency admission to a mental health facility or hospital.** (NRS 433A.145, 433A.150, 433A.160) Under existing law, a person with mental illness who voluntarily admits himself and whose status is changed to an emergency admission must not be detained more than 48 hours after the change in status is made. (NRS 433A.145) Under existing law, a person who is alleged to be a person with mental illness must be released within 72 hours after an emergency admission. (NRS 433A.150) Sections 3 and 4 of this bill provide that a facility may continue to detain a person if a petition is filed by the end of the business day on which the 48 hours or 72 hours, whichever is applicable, expires.

**Sections 1, 3 and 4 of this bill authorize the release of a person who is admitted under an emergency admission if a licensed physician on the medical staff of the mental health facility or hospital signs a certificate stating that the physician has examined the person and that the person is not a person with mental illness.**

Section 5 of this bill changes the time before which a person alleged to be a person with a mental illness must be examined by one of certain enumerated medical professionals from before the person may be transported to before the person may be admitted to a public or private mental health facility under an emergency admission. Section 5 also requires a petition to be filed with a district court if a person with a mental illness must be held for more than 72 hours for the treatment of a medical condition, other than a psychiatric illness, before being admitted to a mental health facility. (NRS 433A.165)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=29>

**Effective October 1, 2009**

## Health Care/Physicians/Surgery Center

**Note:** Health issues, doctors, tests, procedures, and facilities dominated the headlines in Las Vegas for a number of months prior to the session. Reno area facilities and doctors were not immune from the controversy.

Considerable time and energy was expended by the legislature in an effort to possible prevent a repeat of happenings that placed an great number of patients at risk, and certainly stressed over what many saw as irresponsible medical standards.

Following are legislative efforts to address those happenings, hopefully, with corrective measures.

**AB10 – Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating** against an employee who reports in good faith information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports in good faith a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in good faith in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505) **Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports in good faith certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect**

**patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. Sections 1, 3 and 5 also add a definition of “good faith.”**

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) Sections 2, 4 and 6 of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney’s fees and punitive damages and to grant any equitable relief it considers appropriate. Sections 2, 4 and 6 also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than \$10,000 for each such act of retaliation or discrimination.

Existing law provides immunity from civil liability to physicians, homeopathic physicians and osteopathic physicians for providing certain information concerning an applicant for a license or a licensee in good faith to their licensing boards and others for the decisions or actions taken by them in good faith in response to information received by the board. (NRS 630.364, 630A.540, 633.691)

Sections 4.3, 4.7 and 7 of this bill further prohibit the licensing board of a physician, homeopathic physician or osteopathic physician from taking any adverse action against a physician, homeopathic physician or osteopathic physician for disclosing a violation of any law, rule or regulation to a governmental entity or for cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=33>

**Effective July 1, 2009**

**AB196** – Existing law requires a person, state or local government or agency thereof to obtain a license to operate or maintain a medical facility, including a facility for refractive surgery. (NRS 449.0151, 449.030) Existing administrative regulations of the State Board of Health exempt a licensed ophthalmologist from these requirements for licensure of a facility if the ophthalmologist provides other ophthalmological medical services in addition to surgical treatments for refractive errors of the eye. (NAC 449.4502)

**Section 7 of this bill codifies into statute an exemption for certain licensed ophthalmologists who provide surgical procedures in addition to surgical treatments for refractive errors of the eye and adds a requirement that the ophthalmologist file an affidavit with the Health Division of the Department of Health and Human Services attesting that he provides the additional surgical procedures.**

Section 8 of this bill requires a facility for refractive surgery to ensure that: (1) all surgical treatments for refractive errors of the eye are performed by a licensed ophthalmologist; and (2) a licensed ophthalmologist is available for postoperative care if the medical needs of a patient necessitate the services of an ophthalmologist.

Section 9 of this bill authorizes the Health Division to issue an order to cease and desist upon belief that a person, state or local government or an agency thereof is operating a facility for refractive surgery without a license. Section 9 also provides that the Health Division may file an action in court for issuance of an injunction and imposition of a civil penalty.

Existing law authorizes an optometrist to, based upon the individual needs of a patient, collaborate with an ophthalmologist for the provision of care to the patient under certain conditions. (NRS 636.374) Section 13 of this bill adds to the conditions a requirement that the collaborating optometrist refer a patient back to the collaborating ophthalmologist, or another ophthalmologist in his absence, if the patient requires care by an ophthalmologist.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=400>

**Effective July 1, 2009**

**SB268** – Section 2 of this bill: (1) allows a regulatory body to share information with other regulatory bodies and the Health Division of the Department of Health and Human Services relating to public health concerns if the confidentiality of any shared information is maintained; and (2) allows a regulatory body and the Health Division to agree to conduct a joint investigation.

**Section 3 of this bill establishes certain requirements for any member of a regulatory body who is not himself a licensee of that regulatory body. Section 4 of this bill exempts from protection under the Good Samaritan statutes any person who is performing community service as a result of disciplinary action by any regulatory body.**

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=736>

**Effective October 1, 2009**

## **Identity Theft**

**AB27** – Existing law provides that a person who is a victim of identity theft in this State may apply for an identity theft passport. (NRS 205.4651) **This bill revises certain provisions concerning the identity theft passport to:** (1) change the name from identity theft passport to identity theft program card; (2) revise the requirements concerning the filing of a signed written crime report by residents and nonresidents of this State; (3) clarify that an applicant must meet certain criteria before an identity theft program card may be issued; and (4) expand the types of agencies which may accept an application for an identity theft program card.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=90>

**Effective October 1, 2009**

## **Administrative Hearings/Penalties/Fees**

**AB28** - Existing law requires the Department of Motor Vehicles to conduct hearings under certain circumstances and further requires that certain hearings be conducted in the county in which the person who requests the hearing resides, unless the requester and the Department agree on a different location for the hearing. (NRS 483.448, 483.463, 483.470, 483.475, 484.387) **This bill provides that, with regard to any hearing conducted by the Department: (1) the testimony of any party or witness may be taken by telephone, videoconference or other electronic means; and (2) the hearing may be conducted at any location so long as the hearing officer allows each party and witness to testify by telephone, videoconference or other electronic means.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=91>

**Effective May 6, 2009**

**AB87** – Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) **Section 17 of this bill requires the State Controller to act as the collection agent for all agencies which do not have specific statutes concerning their debt collection or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts.**

**Accordingly, section 17 also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due or such other time agreed upon by the agency and the State Controller, unless the debtor has administratively contested the existence or amount of the debt. Finally, section 17 authorizes an agency that has specific statutory authority to engage in its own collection**

**efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts.** (NRS 353C.195)

Section 11 of this bill increases the threshold amount of debt for which the costs and fees actually incurred to collect the debt may be collected from \$200 to \$300, requires the payment of a fee to the State Controller and increases the limitation on the total amount of such costs and fees to an amount not to exceed 35 percent of the debt or \$50,000, whichever is less. Sections 10, 12-16 and 18-20 of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, 353C.160, 353C.180, 353C.190, 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. Section 2 authorizes, with certain exceptions, an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. Section 4 authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. Section 5 authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing his efforts to collect the full amount of the debt. Section 6 authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

Section 7 of this bill specifies the disposition of any money collected by the State Controller on behalf of an agency minus any fees owed to and costs incurred or fees paid by the State Controller to collect any debt that has been assigned to him for collection by the agency and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. Section 7.3 of this bill creates the Debt Recovery Account in the State General Fund and limits the use of the money in the Account to support of the debt collection efforts of the State Controller.

Sections 8, 9 and 22 of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment. (NRS 616C.220, 617.401) Sections 21.3 and 21.7 of this bill create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. Sections 21.3 and 21.7 also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=186>

**Effective May 28, 2009 and July 1, 2009**

**SB76** – Existing law governs the administrative procedures of certain agencies of the Executive Department of State Government. (NRS Ch. 233B) An agency is authorized to summarily suspend a license issued by that agency if the agency finds that the public health, safety or welfare imperatively require such emergency action. (NRS 233B.127) **This bill provides that an agency's order for the summary suspension of a license may be issued by the agency or by the Chairman of the governing body of the agency.** This bill further provides that the



Chairman of a governing body of an agency who issues an order of summary suspension must not participate in any further proceedings relating to that order. Finally, this bill requires the agency to complete its proceedings against the licensee within 45 days after the date of the order of summary suspension unless the licensee and the agency agree to a longer period.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=157>

**Effective May 22, 2009**

**SB151 – Sections 1 and 4 of this bill authorize the State Contractors’ Board to suspend or revoke the license of a residential contractor when the Recovery Fund reimburses a property owner who must pay a subcontractor or materialman to obtain the release of a lien on the property after the residential contractor has not paid the subcontractor or materialman money received for the work or materials rendered.** (NRS 624.3012, 624.530)

Section 4 also authorizes the Board not to issue a license to, or renew or reinstate a license of, a residential contractor so disciplined.

Section 2 of this bill expands the definition of an “injured person,” for the purposes of eligibility to make a claim against the Recovery Fund, to include an owner who is required to pay a second time to obtain the release of a lien recorded against his property for the value of work or materials rendered for a construction project on the property when a contractor has previously received payment for the work or materials and has, in turn, failed to pay for the work or materials. (NRS 624.420)

Section 3 of this bill revises provisions relating to the authorized use of the money in the Recovery Fund to authorize the payment of claims made by “injured persons” as defined in section 2. (NRS 624.470)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=411>

**Effective October 1, 2009**

**SB362 – Existing law allows any agency that grants licenses to summarily suspend a license if the agency finds that public health, safety or welfare imperatively require emergency action. (NRS 233B.127) Sections 3, 6 and 13 of this bill clarify that this general provision applies to the Board of Medical Examiners, the Board of Homeopathic Medical Examiners and the State Board of Osteopathic Medicine.**

Existing law provides that medical facilities which engage in conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada may have their license to operate as a medical facility suspended or revoked. (NRS 449.160) Sections 1, 4, 7, 10, 11, 14, 17, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42 and 44 of this bill authorize various boards which license health care professionals to suspend or revoke the licenses of persons who own or are otherwise responsible for the operation of medical facilities that are investigated or disciplined pursuant to that provision.

Sections 2, 5, 8, 9, 12, 15, 16, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43 and 45 of this bill require various boards which license health care professionals to retain all complaints, whether acted upon or not, for 10 years.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=993>

**Effective October 1, 2009**



## ADR

**AB48** – Under existing law, a contract for a public work must include a provision that requires arbitration of a dispute between the public body and the contractor engaged on the public work. (NRS 338.150) **This bill revises the requirement of that provision to allow the public body and the contractor to resolve a dispute relating to the contract for the public work by way of methods of alternate dispute resolution.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=111>

**Effective May 19, 2009**

## Financial

**AB177** – **Existing law provides that a short-term lessor and a short-term lessee of a passenger car may agree that the lessee will be responsible for certain damage to or loss of use of the car.** (NRS 482.31535) **Section 4.5 of this bill increases from \$500 to \$2,500 the amount for which the lessee may be responsible for physical damage or loss of use of the car which occurs as a result of vandalism not related to the theft of the car and not caused by the lessee.**

Under existing law governing the business of short-term leases of passenger cars, a short-term lessor may offer the lessee of a passenger car the opportunity to purchase a “waiver of damages” that relieves the lessee from financial responsibility for certain kinds of damage to the car. (NRS 482.3153, 482.3155- 482.31565) Section 5 of this bill authorizes a lessor to exclude from such a waiver any damages or loss attributable to the theft of the leased car if the theft is committed by the lessee or other authorized driver or by a person aided or abetted by such a driver.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=370>

**Effective July 1, 2009**

**AB472**

### Civil Financial

- AB472 Credit Card Collections
  - A judgment cannot be entered in favor of a subsequent purchaser of credit card debt who attempts to collect on the debt unless the purchaser establishes liability for the debt in that manner. Also requires certain information to be disclosed in any complaint filed by a purchaser of credit card debt in an action to collect credit card debt

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Existing law provides that an issuer of a credit card may establish liability for credit card debt by producing a written application for the credit card signed by the cardholder or by evidence that the cardholder incurred charges and made payments on the card. (NRS 97A.160) This bill provides that a judgment cannot be entered in favor of a subsequent purchaser of credit card debt who attempts to collect on the debt unless the purchaser establishes liability for the debt in that

manner. This bill also requires certain information to be disclosed in any complaint filed by a purchaser of credit card debt in an action to collect credit card debt.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=913>

**Effective July 1, 2009**

**Amends: NRS Chpt. 97A**

**SB348 – Section 1 of this bill revises certain existing provisions of the Uniform Principal and Income Act to conform with certain rulings from the Internal Revenue Service regarding the manner in which an individual retirement account or other similar retirement plan left to a trust instead of directly to a spouse qualifies for the federal estate marital tax deduction** and thus prevents estate tax from incurring until the surviving spouse dies. Specifically, section 1 provides, in part, that: (1) the spouse has a right to require the income from the individual retirement account or other similar plan to be distributed to the spouse; and (2) to the extent that the individual retirement account or other plan earns income, the trustee is required to pay to the spouse any distributions received from the individual retirement account or other plan. (NRS 164.865)

Section 2 of this bill revises certain existing provisions of the Uniform Principal and Income Act governing taxes required to be paid by a trustee on the trust's share of an entity's taxable income. Specifically, section 2: (1) requires the trustee to pay the taxes on the trust's share of an entity's taxable income from income or principal, or both, under certain circumstances; and (2) provides a formula for calculating the amount a trust needs to distribute to a mandatory income beneficiary and the amount it can use to pay taxes. (NRS 164.920)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=965>

**Effective October 1, 2009**

## **Marriage**

**AB262** - Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9 of this bill provides that if a male and female are the husband and wife of each other and the record of their marriage has been lost or destroyed or is otherwise unobtainable, they may be rejoined in marriage.** Section 5.47 of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

**Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate.** (NRS 122.040)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=523>

**Effective July 1, 2009**

**SB14** – Existing law requires a county clerk to collect certain fees when issuing a marriage license. (NRS 122.060) **A portion of the fee a county clerk collects when issuing a marriage license is dedicated to the Account for Aid for Victims of Domestic Violence in the State General Fund. Section 1 of this bill increases the portion of the fee for a marriage license that funds the Account for Aid for Victims of Domestic Violence from \$20 to \$25.**

Section 2 of this bill provide that the county clerk shall collect, if authorized by the board of county commissioners, an additional fee of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund when certifying a copy of a certificate of marriage or when certifying an abstract of a certificate of marriage. (NRS 246.180) Section 3 of this bill requires the county recorder to charge the same fee as required in section 2. (NRS 247.305)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=25>

**Effective May 13, 2009**

**SB130 – Section 3 of this bill defines the term “other person authorized to solemnize a marriage” as a person, other than a minister, who has been authorized to solemnize a marriage according to the usages of his church or religious organization.**

Sections 4 and 6-19 of this bill amend existing law to grant the same rights and responsibilities for solemnizing a marriage to a “person authorized to solemnize a marriage” as the statutes do for a minister. (Chapter 122 of NRS) Section 4 of this bill creates an affidavit, to be filed with the county clerk, to revoke the authority of a minister or other person authorized to solemnize a marriage if he no longer has the authority to solemnize a marriage within his church or religious organization.

**Section 8 of this bill amends existing law to allow a person authorized to solemnize a marriage to: (1) legally join together a husband and wife; and (2) obtain a certificate of permission to perform marriages from a county clerk. Section 8 also allows a person authorized to solemnize a marriage who resides outside of Nevada to solemnize a marriage in this State under certain circumstances.** (NRS 122.062)

Sections 9 and 10 of this bill amend existing law to allow a person, other than a minister, who has been authorized to solemnize a marriage according to the usages of his church or religious organization to apply for a certificate of permission to perform marriages. Sections 9 and 10 also remove the requirement that the solemnization of marriages be only incidental to the ministry provided to his church or religious organization and requires a new affidavit of authority to solemnize marriages to be submitted with the application for a certificate instead of copies of the denominational standing of the applicant. (NRS 122.064)

Section 11 of this bill requires a minister or other person authorized to solemnize a marriage to: (1) comply with Nevada laws pertaining to persons who solemnize marriages; (2) continue to meet the statutory requirements to solemnize marriages; and (3) update the county clerk of changes in personal information. Section 11 also: (1) revises existing law to require the affidavit of authority or affidavit of revocation to be filed by the church or religious organization, instead of a written statement filed by a trustee, warden or other responsible person; and (2) requires the Secretary of State to establish and maintain an electronic database to store information relating to ministers or other persons authorized to solemnize a marriage and to serve as an official list of persons so authorized in this State.

(NRS 122.066)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=337>

**Effective July 1, 2009 and upon repeal of certain Federal Laws**

## **Worker’s Comp/Unemployment/Employment/Insurance**

**AB243 – Section 1 of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment, which must be taken in increments of 1 hour, per school year per child to attend school-related activities or events or to volunteer at the school in which his child is enrolled. Section 1 also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the**

**leave. The provisions of section 1 do not apply if the employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement.**

Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) Section 2 of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child. Section 2 also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by section 1 of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to file a claim or complaint with the Labor Commissioner.

Section 4 of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. The provisions of section 4 do not apply if an employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement. Section 5 of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by section 4. Section 5 also authorizes a parent, guardian or custodian to file a claim or complaint with the Labor Commissioner.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=490>

**Effective August 15, 2009**

**AB281** - Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) **Section 2 of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.**

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) Section 3 of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. Section 3 also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 6 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the



insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

Sections 7 and 8 of this bill authorize certain contested claims relating to certain occupational diseases of police officers, firefighters and emergency medical attendants to be submitted directly to an appeals officer, thereby bypassing the hearing officer to whom the contested claim would need to be submitted under existing law. (NRS 616C.315) Section 8 also requires that the appeals officer set a hearing date within 60 days after receiving a notice of any such contested claim. (NRS 616C.345) Section 9 of this bill requires that the appeals officer render a decision for any such contested claim within 15 days after certain specified events. (NRS 616C.360)

Section 11 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=561>

**Effective July 1, 2009, and October 1, 2009**

**AB338** – Existing law requires certain employers to make payments into the Unemployment Compensation Administration Fund for the program for the employment and training of unemployed persons and persons employed in this State. (NRS 612.606, 612.607) **This bill authorizes the expenditure of such money to establish a program to provide grants to nonprofit private entities to be used to make loans to veterans and senior citizens to start small businesses.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=669>

**Effective July 1, 2009**

**AB410** – **Section 1 of this bill allows the provisions of collective bargaining agreements between certain employers and the labor organizations that represent their employees to supersede various statutory provisions relating to industrial insurance.** Such collective bargaining agreements may include provisions which establish processes for alternative dispute resolution, lists of medical evaluators and providers of medical treatment, joint safety committees, programs for light-duty or modified job responsibilities and programs for vocational rehabilitation. **(Requires the courts to recognize these provisions)**

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=798>

**Effective July 1, 2009**

**SB426** – **Sections 1-3 of this bill create: (1) the Fund for Insurance Administration and Enforcement as an enterprise fund to carry out the provisions of the Nevada Insurance Code; and (2) new fees to provide money for the Fund.**

Sections 7 and 85 of this bill eliminate certain restrictions on out-of-state insurers due to a court decision by the United States Ninth Circuit Court of Appeals (*Council of Insurance Agents & Brokers v. Molasky-Arman*, 522 F.3d 925 (9th Cir. 2008)). (NRS 680A.300, 695E.130) This case holds that Nevada law violates the Privileges and Immunities Clause of the United States Constitution regarding nonresident insurance agents and resident agents.

Sections 35-38 and 55-58 of this bill require certain insurers to comply with newly enacted federal acts.

Section 38.5 of this bill requires an insurer that issues policies of health insurance to provide notice before changing its formulary within the plan year if the change will affect a prescription drug used by an insured to prevent the rejection of a transplanted organ.

Section 98 of this bill makes this provision applicable to selffunded plans of a local governmental agency. (NRS 287.010)



Sections 38.105, 38.12-40.58 and 97.72-97.77 of this bill revise provisions relating to viatical settlements.

Sections 102 and 103 of this bill revise provisions related to the Federal Deposit Insurance Corporation.

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1144>

**Effective May 29, 2009, June 15, 2009, October 1, 2009, and October 9, 2009**


## Liability

AB332

**Civil**  
District Court

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- AB 332 Immunity and Food Donations
  - Definition of “wholesome food” expanded to include “perishable” food
  - Clarifies that immunity applies to donations of perishable food
  - Exceptions: gross negligence, willful misconduct of donor



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**Notes:** Existing law provides immunity from civil liability for persons/entities who donate and/or distribute, in good faith, “wholesome food or a grocery product that is fit for human use.”

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Existing law establishes immunity from civil liability for certain persons who donate certain grocery products or wholesome foods for consumption or use and for certain persons who receive or distribute such products or foods for consumption or use. This bill adds perishable food to the definition of “wholesome food,” to clarify that the immunity applies to donating perishable foods or receiving and distributing perishable foods.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=663>

**Effective July 1, 2009**

**Amends: NRS 41.491**

## Landlord/Tenant

**AB477 – This bill exempts a person who works for a landlord of a dwelling unit that is used as a residence for certain older persons from the requirement of having a criminal background check to obtain a work card from the county sheriff if the person has submitted to a background check as a condition to employment with certain medical or other related facilities within the immediately preceding 6 months.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=922>

**Effective October 1, 2009**

## Notary

**SB92** – Under existing law, the Secretary of State is authorized to appoint notaries public in this State. (NRS 240.010) **Sections 3-26 of this bill enact the Electronic Notary Public Authorization Act, which authorizes the Secretary of State to appoint electronic notaries public who will be authorized to notarize electronic documents.**

Sections 2 and 5-10 of this bill set forth various definitions relating to electronic notarization. Section 12 of this bill requires that a person seeking appointment as an electronic notary public already be a notary public in Nevada, and successfully complete a course of study on electronic notarization, enter into a bond, pay an application fee and take an oath as a public officer.

Section 14 of this bill provides that the initial term of appointment for an electronic notary public is 2 years and any subsequent term of appointment is 4 years. Section 16 of this bill states that an electronic notary public may perform the same notarial acts as a notary public except for certifying copies and noting protests of a negotiable instrument, and section 17 of this bill sets forth the fees he may charge.

Section 18 of this bill prohibits the electronic notarization of a will, codicil, testamentary trust or any document related to transactions governed by certain sections of the Uniform Commercial Code, as prohibited by the Uniform Electronic Transactions Act, codified as chapter 719 of NRS. (NRS 719.200) Section 19 of this bill sets forth the specific requirements that distinguish the notarization of an electronic document from a nonelectronic notarization, including the use of an electronic signature and an electronic seal.

Sections 21 and 22 of this bill provide that an electronic notary public must safeguard his electronic signature and any software or device used in producing that signature. Section 23 of this bill makes it a gross misdemeanor to: (1) wrongfully make or distribute software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed; or (2) wrongfully obtain, conceal, damage or destroy the software or hardware used by an electronic notary public.

Section 25 of this bill authorizes the Secretary of State to promulgate regulations to carry out the provisions of the Electronic Notary Public Authorization Act. Section 26 of this bill provides that all the laws which apply to regular notaries public apply to electronic notaries public unless a provision of the Electronic Notary Public Authorization Act conflicts, in which case the latter controls.

Existing law prohibits a person who has been convicted of a crime of moral turpitude or a person who does not possess his civil rights from being appointed as a notary public. (NRS 240.010, 240.015) Section 29 of this bill authorizes the Secretary of State to appoint as a notary public a person who was convicted of certain crimes if: (1) more than 10 years have passed since the end of his sentence, parole or probation; (2) he has made restitution, if applicable; (3) he has had his civil rights restored; and (4) the crime for which he was convicted was not one of an enumerated list of crimes involving dishonesty or identity theft. Existing law allows a resident of an adjoining state to be appointed as a notary public in Nevada if he maintains or works for a business in Nevada. (NRS 240.015)

Sections 30-32 of this bill amend the requirements for a nonresident notary public to further require a copy of a state business license and any other business license required by a local government where the business is located as proof of employment or self-employment in Nevada when applying for an appointment or the renewal of an appointment as a nonresident notary public.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=193>

**Effective July 1, 2009**

## **Power of Attorney**

**SB314** – Existing law provides for the use of powers of attorney for various purposes, including for conveyances of property and for making decisions relating to health care. (NRS 111.450, 111.460, 111.470, 449.800-449.860) **This bill repeals those existing provisions of law relating to powers of attorney and enacts the Uniform Power of Attorney Act, which was promulgated by the National Conference of Commissioners on Uniform State Laws in 2006.**

Pursuant to the Act, a power of attorney may grant authority to an agent to act for a principal in a variety of matters relating to finance, real property, tangible personal property, stocks and bonds, banks and other financial institutions, business operations, insurance and annuities, estates, trusts and other beneficial interests, claims and litigation, personal and family maintenance, benefits from governmental programs or civil or military service, taxes and gifts. According to the National Conference of Commissioners on Uniform State Laws, the Uniform Act is intended to: (1) preserve the effectiveness of a durable power of attorney as a low-cost, flexible and private form of surrogate decision-making; (2) include mandatory safeguards for the protection of the principal, the agent and persons who are asked to rely on the agent's authority; (3) modernize the various areas of authority that may be granted to an agent and require authorization by the principal in express language where certain authority could dissipate the principal's property or alter the principal's estate plan; (4) establish an optional statutory form; (5) offer more clear guidelines for an agent to follow; (6) provide ways for the agent to give notice of resignation if the principal is incapacitated; (7) encourage acceptance of a power of attorney by third parties; and (8) enhance the usefulness of a durable power of attorney, while at the same time protecting the principal, the agent and those who deal with the agent.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=880>

**Effective October 1, 2009**

## **Partnerships/Corporations/Resident Agents**

**SB335** – **Sections 4, 14-21, 26, 28 and 30-34 of this bill revise provisions governing the registration of domestic and foreign partnerships, corporations, limited-liability companies and sole proprietorships performing professional accounting services in this State to require registration under certain circumstances and to specify certain services which may be performed without registration under certain circumstances, as well as revise related provisions governing such practice.**

Sections 5, 9, 27, 29 and 31-35 of this bill set forth the conditions under which a natural person who holds a valid license as a certified public accountant in another state shall be deemed to be granted the practice privileges of a certified public accountant in this State and revise related provisions governing such practice.

Section 6 of this bill establishes the competency requirements which must be met by a person who signs or authorizes another to sign an accountant's report on financial statements.

Sections 10 and 22 of this bill revise the authority of the Nevada State Board of Accountancy to revoke or refuse to grant a certificate, a permit or practice privileges of a certified public accountant.

Sections 11-13 of this bill authorize the Board to use all or any part of a certain provider's examination and grading service and to prescribe by regulation the education required for an applicant's eligibility to take that examination.

Section 23 of this bill revises provisions relating to the Board's conduct of disciplinary proceedings.

Sections 24 and 25 of this bill revise provisions relating to the retention of documents associated with the rendering of certain professional services.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=923>

**Effective July 1, 2009**

**SB350** – Existing law requires a registered agent to notify the Commissioner of Financial Institutions if the registered agent determines that a represented entity is not properly licensed. (NRS 77.410, 604A.710, 675.380) **Sections 1, 81 and 82 of this bill clarify that a registered agent who is an attorney is not required to make such a notification if doing so would violate the attorney-client privilege.**

**Sections 16, 36.1, 48.5, 55.5 and 56.4 of this bill: (1) increase from \$500 to a minimum of \$1,000 and a maximum of \$10,000 the fine imposed on certain foreign business entities that transact business in this State without registering with the Secretary of State or otherwise qualifying to do business in this State; and (2) allow the district attorney or Attorney General to recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding.** (NRS 80.055, 86.548, 87A.610, 88.600, 88A.750)

Sections 17.6, 36.6, 39.7 and 49.8 of this bill impose the same fine on foreign nonprofit corporations, foreign registered limited-liability partnerships and foreign limited-liability limited partnerships that do business in this State without registering with the Secretary of State.

Sections 1.5, 27.5, 36.4, 39.3, 39.5, 49.4, 49.6, 56.2 and 56.6 of this bill provide that: (1) a person is subject to a fine of not more than \$1,000 but not less than \$10,000 if the person is purporting to do business in this State as a business entity and willfully fails or neglects to register with the Secretary of State or file with the Secretary of State certain documents; and (2) the district attorney or Attorney General may recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding.

Sections 2-14 of this bill make technical corrections to various provisions relating to corporations. (Chapter 78 of NRS)

Existing law provides that certain notices for certain purposes must be posted and certain actions must be filed in certain counties where the principal office of the entity is located or, if the principal office is not located in this State, in the district court in Carson City. (NRS 78.275, 78.345, 78.630, 82.306, 82.471, 82.486) Sections 7, 8, 15, 19, 21 and 22 of this bill provide that instead of the proper venue being the district court in Carson City, the proper venue will lie in the county in which the entity's registered office is located.

Sections 26 and 27 of this bill provide for the formation of a restricted limited liability company and prescribe the requirements pertaining to such entities. (Chapter 86 of NRS)

Sections 28 and 33 of this bill provide for certain rights of members relating to recordkeeping and the inspection of certain records.

Sections 38, 39 and 49.2 of this bill provide for the formation of a restricted limited partnership and prescribe the requirements pertaining to such entities. (Chapters 87A and 88 of NRS)

Sections 57 and 58 of this bill revise the provisions relating to professional organizations to permit ownership of such entities if at least one stockholder or member is admitted to the State Bar of Nevada. (NRS 89.040, 89.070)

Sections 59-78 of this bill make various changes relating to dissenters' rights, in accordance with recent changes that were made to the Model Business Corporation Act. (Chapter 92A of NRS)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=969>

**Effective October 1, 2009**



# Criminal

## Animals

**AB15** – Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) Section 1 **of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance.** Section 1 further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance.

Sections 2 and 3 of this bill **require a retailer or dealer who sells a dog or cat to disclose to the purchaser the name and address of the breeder of the dog or cat and any sterilization requirements for the animal required by local ordinance.** (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State Department of Agriculture in an amount not to exceed \$250 for the first violation, \$500 for the second violation and \$1,000 for each subsequent violation. (NRS 574.485)

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=43>

**Effective October 1, 2009**

**AB199** – Existing law prohibits a person from instigating, promoting or in any way engaging in the furtherance of any fight between animals in an exhibition or for amusement or gain which is premeditated by a person who owns or has custody of the animals. (NRS 574.070) **This bill prohibits a person from owning, possessing, keeping, training, promoting or purchasing an animal with the intent to use it to fight another animal or from selling an animal knowing that it is intended to be used to fight another animal.** If a person commits such a violation, he is guilty of a gross misdemeanor for a first offense, a category E felony for a second offense and a category D felony for a third or subsequent offense. Under existing law, a person is prohibited from witnessing any fight between animals in an exhibition or for amusement or gain. This bill requires a person to knowingly witness such a fight in order to be guilty of a violation.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=409>

**Effective October 1, 2009**



**SB132**

**Criminal  
Animals**

- SB132 Cruelty to Animals
  - Creates new restrictions on tethering or restraining an animal for more than 14 hours during a 24 hour period
  - Requires animals to be considered in State emergency plan



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Existing law prohibits a person from depriving an animal of necessary food or drink or committing any other act of cruelty against an animal. (NRS 574.100) Section 1 of this bill prohibits a person from restraining a dog: (1) using a tether, chain, tie, trolley or pulley system or other device that is less than 12 feet in length or fails to comply with certain other requirements concerning the movement of the dog; (2) using a prong, pinch or choke collar or similar device; or (3) for more than 14 hours during a 24-hour period. Section 1 also provides that any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog and may be used by a person whose property is of insufficient size to ensure compliance with the requirements for chaining or tethering the dog on the property. Section 1 exempts from this prohibition a dog that is: (1) being treated by a veterinarian; (2) being used for hunting or being trained to hunt; (3) participating in a dog show; (4) being kept in a shelter or boarding facility or temporarily in a camping area; (5) temporarily being cared for during a rescue operation; (6) being used as part of an agricultural operation; or (7) engaged in a temporary task or activity for not more than 1 hour with a person having custody or control of the dog.

Existing law authorizes the Governor, in carrying out the provisions of chapter 414 of NRS, to prepare a comprehensive state emergency management plan. (NRS 414.060) Existing law also requires the Chief of the Division of Emergency Management of the Department of Public Safety to prepare state and local governmental agencies to be capable of responding appropriately if a disaster or emergency occurs. In carrying out this duty, the Chief may encourage state and local agencies to adopt plans for emergency operations. (NRS 414.040) Section 2 of this bill requires the state emergency management plan prepared by the Governor and each plan for emergency operations adopted by a state or local governmental agency to include provisions ensuring that, to the extent practicable, a person with a disability who uses a service animal is evacuated, transported and sheltered together with the service animal during a disaster or emergency.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=339>

**Effective October 1, 2009**

**Amends: NRS 574.100, NRS Chpt. 414**

# Assault/Battery/DV

## AB9

### Criminal Assault/Battery/DV

- AB93 Revises definition of battery
  - Battery includes unlawfully attempting to use force against another person.



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This bill revises the definition of the crime of assault by expanding the current definition to include unlawfully attempting to use physical force against another person.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=207>

**Effective May 6, 2009**

**Amends: NRS 200.471**

## AB164

### Criminal Assault/Battery/DV

- AB164 Strangulation
  - Battery by strangulation has the same penalty as battery w/ substantial bodily harm
  - Sec. 3 defines 'strangulation'
  - Domestic battery committed by strangulation is now a category C felony
  - Additional penalties if strangulation is used in a sexual assault or against a child



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Section 3 of this bill revises provisions governing the crime of battery to provide the same penalties for a battery which is committed by strangulation as are imposed for a battery which results in substantial bodily harm. (NRS 200.481) Section 3 also defines the term "strangulation" similarly to the manner in which the term is defined in a similar Minnesota law. (Minn. Stat. § 609.2247(1)©)

Sections 4 and 5 of this bill revise provisions governing the crime of battery which constitutes domestic violence to impose a category C felony with a maximum fine of \$15,000 upon any person who is convicted of a battery which constitutes domestic violence if the battery is committed by strangulation. (NRS 200.485)

Sections 1, 2, 6 and 7 of this bill amend certain provisions regarding additional penalties, battery with the intent to commit sexual assault, the reporting of certain crimes committed against a child and bail so that those provisions will apply in the same manner to a battery which resulted

in substantial bodily harm and a battery which was committed by strangulation. (NRS 193.166, 200.400, 202.876, 178.484)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=349>

**Effective Sections 1 to 4, and 9, inclusive, 6, 7 and 8 of this act effective May 6, 2009. Section 4 of this act expires by limitation June 30, 2009. Section 5 of this act effective July 1, 2009.**

**Amends: NRS 193.166, NRS 200.400, NRS 200.481, NRS 200.485, NRS 200.485, NRS 202.876, NRS 178.484, NRS 432B.640**

**AB253**

**Criminal  
Assault/Battery/DV**

- AB253 Obstructing or delaying an officer
  - Makes using or attempting remove a firearm from an officer to delay or obstruct an officer a category C felony
  - Using any other dangerous weapon is a category D felony



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Existing law provides that a person who resists, delays or obstructs a public officer in discharging his duties is guilty of a category D felony or a misdemeanor, depending upon whether the person used a dangerous weapon. (NRS 199.280) This bill provides that a person who, during such resistance, delay or obstruction: (1) uses a firearm or intentionally removes or attempts to remove a firearm from a public officer, is guilty of a category C felony; and (2) uses any dangerous weapon, other than a firearm, or intentionally removes or attempts to remove a weapon, other than a firearm, from a public officer, is guilty of a category D felony.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=503>

**Effective October 1, 2009**

**Amends: NRS 199.280**

**AB384 – Existing law makes it a crime for a prisoner who is in lawful custody or confinement, other than residential confinement, to commit certain acts involving human excrement or bodily fluid.** (NRS 212.189) This bill expands the applicability of that crime to include a prisoner who is under lawful arrest. In *Dumaine v. State* (103 Nev. 121 (1987)), the Nevada Supreme Court interpreted the phrase “under lawful arrest” as used in the definition of “prisoner” set forth in existing law (NRS 193.022 and 208.085) to mean that there is an actual restraint of the liberty of the person. The Court stated that one cannot be a prisoner until “one either submits to the control of the arresting officer or is captured, *i.e.*, taken and held in control.” (*Dumaine*, 103 Nev. 121, 124) **Thus, this bill provides that such a crime applies to a person being arrested if there has been an actual restraint of the liberty of that person because either the person has submitted to the control of the arresting law enforcement officer or the person has been captured.**

Existing law also provides that if the victim of such a crime is an officer or employee of a prison, the person or governmental entity operating the prison in which the act occurred is required to pay for certain examinations or tests requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the crime. (NRS 212.189) **This bill expands that provision by providing that if the victim of such a crime is**

**an officer or employee of a law enforcement agency, the law enforcement agency that employs the officer or employee is required to pay for such examinations and testing requested by the officer or employee.**

Existing law prohibits a prosecuting attorney from dismissing charges for such a crime, under certain circumstances, if the victim or intended victim is an officer or employee of a prison. (NRS 212.189) **This bill amends existing law to apply similarly in cases in which the victim or intended victim is an officer or employee of a law enforcement agency.**

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=760>

**Effective October 1, 2009**

## Boating

**AB73** – Existing law requires a person who operates a boat that is towing a person on water skis or another device to be at least 14 years of age, or at least 12 years of age as long as there is a passenger on the boat who is at least 21 years of age and who is in a position to supervise. The skier must also be observed by another person on the boat. The observer must be at least 12 years of age, or at least 10 years of age as long as there is a passenger on the boat who is at least 21 years of age. (NRS 488.570) **Section 3 of this bill provides that a person who operates such a boat must be at least 16 years of age, or at least 14 years of age as long as there is a passenger on the boat who is at least 18 years of age and who is in a position to supervise the operator. Section 3 also provides that a person who is at least 14 years of age, or at least 12 years of age as long as there is a passenger on the boat who is at least 18 years of age, may act as the observer of the person being towed.**

Section 4 of this bill repeals a provision which requires certain motorboats to be equipped with an efficient bell or whistle. (NRS 488.198)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=170>

**Effective January 1, 2010**

## Commercial/Financial/Trade Practices/Personal Info

**AB90** – Existing law allows the Attorney General to investigate suspected deceptive trade practices and to institute proceedings to seek certain remedies for such violations. (Chapter 598 of NRS) **Section 1 of this bill requires that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances.** Section 1 also authorizes the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=189>

**Effective October 1, 2009**

### AB233

**Criminal  
Commercial/Financial/Trade Practices/ Personal  
Information**

- **AB233 Scrap Metal**
  - This bill makes various changes to crimes regarding scrap metal, requires that scrap metal dealers keep detailed records, makes removal of metal from 'infrastructure' a more serious crime, and applies existing provisions regarding larceny to stealing metal.



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Sections 2 and 3 of this bill define the terms “scrap metal” and “scrap metal processor.” Section 4 of this bill requires purchasers of scrap metal to hold current business licenses from both the State and the appropriate city or county and to have authorization to operate from the appropriate solid waste management authority.

Section 5 of this bill requires scrap metal processors to maintain certain records of all purchases of scrap metal by the scrap metal processors. Section 6 of this bill allows peace officers or investigators to place a hold on certain property in the possession of a scrap metal processor alleged to be related to criminal activity for a specified period during the investigation or prosecution.

Section 7 of this bill requires that payments for purchases of scrap metal with a value of \$150 or more by a scrap metal processor must be made by certain means and that a receipt containing certain specified information must be provided to the seller of the scrap metal. Section 7 also allows only a single cash transaction of less than \$150 each day between a scrap metal processor and a seller. Section 7.5 of this bill provides that a person who violates any provision of section 5, 6 or 7 of this bill is guilty of a misdemeanor.

Section 9 of this bill excludes scrap metal from the definition of “junk” under chapter 647 of NRS. (NRS 647.015) Section 11 of this bill expands the crime of receiving property stolen from certain utilities and political subdivisions of the State, a category D felony, to include transactions involving scrap metal. (NRS 647.145)

Section 10 of this bill provides that chapter 647 of NRS does not prevent counties from licensing, taxing and regulating dealers in junk or scrap metal. (NRS 647.080)

Section 12 of this bill provides that a person who willfully or maliciously removes, damages or destroys utility property, agricultural infrastructure, construction sites or certain other property to obtain scrap metal is guilty of a misdemeanor if the value of the removal or damage of property is less than \$500 or a felony if the removal or damage is greater than \$500 or interrupts a service provided by utility property.

Existing law generally provides that a person commits petit larceny and is guilty of a misdemeanor if he steals property with a value of less than \$250. (NRS 205.240) Existing law also generally provides that a person commits grand larceny if he steals property with a value of \$250 or more. (NRS 205.220) A person who commits grand larceny is guilty of a category C felony if the value of the property is less than \$2,500 and is guilty of a category B felony if the value of the property is \$2,500 or more. (NRS 205.222) Section 13 of this bill: (1) provides that, if the value of the scrap metal stolen within a period of 90 days is less than \$250, the person is guilty of a misdemeanor; (2) provides that, if the value of the scrap metal stolen within a period of 90 days is \$250 or more, the person is guilty of a category C or B felony with varying terms of imprisonment and fines, depending upon the value of the scrap metal stolen within the 90-day period; (3) requires the court to order a person who steals scrap metal to pay restitution; and (4) provides that the cost of repairing or replacing property damaged by the theft of scrap metal must be included in the value of the property that was stolen.

Sections 17 and 19 of this bill amend existing law to apply certain provisions governing larceny to the new crime of larceny described in section 13 of this bill involving scrap metal. (NRS 205.251, 05.980)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=475>

**Effective July 1, 2009**

**AB322** – Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section 1 of this bill, which is patterned in part after existing securities laws, **provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact**



**necessary in light of the circumstances which: (1) the person knows to be false or omitted; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact.** (NRS 90.570)

Section 2 of this bill revises the definition of a crime related to racketeering to include the new crime established by section 1 of this bill. (NRS 207.360) Existing law establishes various crimes relating to racketeering activity. (NRS 207.400)

Section 3 of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further racketeering activity. In addition, section 3 prohibits a person who knows that property represents proceeds of any unlawful activity from conducting or attempting to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

Section 4 of this bill generally provides that a prosecution of the new crime established by section 1 of this bill must be commenced within 4 years after the crime is committed. (NRS 171.085)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=637>

**Effective October 1, 2009**

**AB389** – Existing state and federal laws prohibit a person who accepts credit cards or debit cards for the transaction of business from printing the expiration date of the card or more than the last five digits of the account number of the card on any receipt provided to the cardholder. (NRS 597.945; 15 U.S.C. § 1681c(g)) **Section 2 of this bill prohibits a business from printing more than the last five digits of the account number of the card on any copy of the receipt that is retained by the business that accepted the card.** Additionally, section 2 prescribes a civil penalty of \$500 for a business that violates these provisions and an additional penalty of \$1,000 per week for a business that does not correct the violation. The aggregate amount of civil penalties imposed on a business for violations of these provisions which occur on the same premises must not exceed \$4,500. Finally, section 2 authorizes the Attorney General or a district attorney to: (1) recover the civil penalties in a civil action; and (2) bring an action to enjoin any violation of the provisions of section 2. A business that violates any order or injunction issued to enjoin a violation of the provisions of section 2 is guilty of a gross misdemeanor.

Section 3 of this bill exempts from the applicability of section 2, from July 1, 2009, to December 31, 2009, a business that does not have the ability to control or adjust the manner in which a receipt is electronically printed.

Section 1 of this bill prohibits a manufacturer or a supplier from providing, selling or leasing a cash register or other machine or device that does not allow a business to comply with the provisions of section 2. Section 1 also authorizes the Attorney General or a district attorney to bring an action to enjoin any violation of the provisions of section 1. A person who violates any order or injunction issued to enjoin a violation of the provisions of section 1 is guilty of a gross misdemeanor.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=772>

**Effective July 1, 2009, and October 1, 2009**

**SB82** – **This bill establishes procedures to allow law enforcement to identify funds associated with prepaid or stored value cards.** This bill allows a peace officer to determine the name, personal information and amount of funds associated with a prepaid or stored value card in certain circumstances where there is probable cause to believe that the prepaid or stored value card is an instrumentality of a crime. Finally, this bill allows the Attorney General or a state or

local law enforcement agency to enter into a contract to carry out the provisions of this bill concerning the identification of funds.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=163>

**Effective July 1, 2009**

**SB125 – Section 1 of this bill prohibits a person from knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act: (1) capturing, storing or reading information from the radio frequency identification document of another person without the knowledge and consent of the other person; or (2) retaining, using or disclosing information that the person knows to have been obtained from the radio frequency identification document of another person without the knowledge and consent of the other person. This new crime is punishable as a category C felony.** Existing law establishes an exception to the statutory prohibitions relating to the possession or use of the personal identifying information of another person by providing that those prohibitions do not apply to a person who, without the intent to defraud or commit an unlawful act, possesses or uses the personal identifying information of another person pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction. (NRS 205.4655) Section 5 of this bill deletes from this exception the requirement that such an authorized user of a payment card must have given permission for the financial transaction.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=318>

**Effective October 1, 2009**

**SB193 – Under existing law a person who engages in the business of buying and selling antiques is a secondhand dealer and is subject to certain state and local provisions governing secondhand dealers, including certain licensing, record-keeping, reporting and penalty provisions. (NRS 244.3485, 268.0974, 647.110-647.132, 647.140, 647.145) This bill exempts a person who engages in the business of buying and selling antiques from state and local regulation as a secondhand dealer.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=545>

**Effective July 1, 2009**

**SB223 – Existing law prohibits a person from: (1) obtaining or possessing the credit card or debit card, or the identifying description of the credit card or debit card, of another person who is the cardholder, without the consent of the cardholder, with the intent to circulate, use, sell or transfer the card or the identifying description of the card; (2) selling a credit card or debit card or the number or other identifying description of a credit card, debit card or credit account; (3) buying a credit card, debit card or the number or other identifying description of a credit card, debit card or credit account from a person other than the issuer; and (4) using, with the intent to defraud, the number or other identifying description of a credit account, customarily evidenced by a credit card or the number or other identifying description of a debit card, to obtain money, goods, property, services or anything of value without the consent of the cardholder. (NRS 205.690, 205.710, 205.760)**

**Sections 1-3 of this bill clarify existing law by providing that for the purposes of these crimes, the identifying description of a credit card or debit card may be a physical or electronic description of the credit card or debit card.**

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=625>

**Effective October 1, 2009**

## Miscellaneous

**AB132** – Existing law provides that, in an action for **forcible or unlawful entry or detention of real property**, a judgment may be entered for three times the amount of the actual damages assessed by the court or jury. (NRS 40.170) The Nevada Supreme Court held in *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. Adv. Op. 64, 192 P.3d 243 (2008), that the provisions of NRS 40.170 authorizing a judgment of **three times the amount of actual damages** assessed in such an action did not apply to actual damages to personal property but rather applied only to actual damages to real property. **This bill defines the term “actual damages” for that provision of existing law to mean damages to real property and personal property.** (NRS 40.170)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=287>

**Effective October 1, 2009**

### AB182

#### Criminal Miscellaneous

- AB182 Explosives
  - This bill makes various changes to NRS regarding the definition and prohibited uses of explosives.



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Section 1 of this bill revises the definition of “explosive” contained in NRS 202.750 to include any explosive material in the list of explosive materials published in the Federal Register pursuant to 18 U.S.C. §§ 841 et seq.

Section 2 of this bill moves the provisions currently contained in NRS 202.270, which prohibit the destruction of buildings with human beings inside by means of explosives, into NRS 202.830. (NRS 202.270)

Section 5 of this bill then repeals NRS 202.270. Section 5 of this bill also repeals certain duplicative crimes in the Nevada Revised Statutes relating to explosives, including: (1) NRS 202.810 and 476.020, prohibiting possession of explosives in certain public places, which may already be prosecuted pursuant to NRS 202.262; and (2) NRS 476.050, which prohibits acts endangering property by explosives that may be prosecuted pursuant to the existing provisions of NRS 202.830. (NRS 202.262, 202.810, 476.020, 476.050)

Sections 3 and 4 of this bill make technical changes only to revise internal references to statutory provisions that are amended or repealed in this bill.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=376>

**Effective April 22, 2009**

**Amends: NRS 202.750, NRS 202.830, NRS 207.012, NRS 41.0334**

**Repeals: NRS 202.270, NRS 202.810, NRS 476.020, NRS 476.050**

## AB266

### Criminal Miscellaneous

- AB266 Novelty Lighters
  - Bans the sale or distribution of novelty lighters
  - Defines novelty lighter as a lighter that resembles a toy, gun, etc., and/or doesn't look like a regular 'Bic' disposable lighter



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This bill prohibits the sale or distribution as a promotion of novelty lighters. This bill also provides a comprehensive definition of a “novelty lighter.” This bill becomes effective on January 1, 2010.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=531>

**Effective January 1, 2010**

**Amends: NRS Chpt. 579**

## AB286

### Criminal Miscellaneous

- AB286 Trespassing
  - Codifies the Supreme Court's decision in *Scott v. Just. Ct., 84 Nev. 9 (1968)*
  - A person is trespassing when asked by the owner to leave and he/she refuses



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**Related Court Cases:** *Scott v. Just. Ct., 84 Nev. 9 (1968)*

Under existing law, a person commits the crime of trespassing if the person willfully goes or remains upon any land or in any building after having been warned not to trespass by the owner or occupant of the land or building. (NRS 207.200) The Nevada Supreme Court has held that when an owner of premises asks a guest who was originally invited to the premises to leave, the owner has given a sufficient warning not to trespass, and the disinvented guest commits trespassing if the guest then refuses to leave. (*Scott v. Just. Ct., 84 Nev. 9 (1968)*)

This bill codifies the holding in *Scott* and provides that an owner or occupant of any land or premises shall be deemed to have given a sufficient warning to a guest not to trespass if the owner or occupant makes an oral or written demand to the guest to vacate the land or building.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=566>

**Effective October 1, 2009**

**Amends: NRS 207.200**

**AB461**

**Criminal  
Miscellaneous**

- AB461 Elder Crimes
  - Changes AG's office reporting requirements on elder abuse, etc.
  - Establishes multidisciplinary elder abuse, etc. team to review allegations
  - Requires POST training on elder issues



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Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) Section 1 of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=877>

**Effective October 1, 2009**

**Amends: NRS 200.5093, NRS 179A.450, NRS 228.270**

**AB481** – Existing law makes it a crime for a person who is a fugitive from justice to own a firearm or to have a firearm in his possession or under his custody or control. (NRS 202.360) In *Gallegos v. Nevada*, 123 Adv. Op. 31, 163 P.3d 456 (2007), the Nevada Supreme Court held that provision to be unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution because it failed to define the term “fugitive from justice.” **This bill defines the term “fugitive from justice” for purposes of that crime, as well as for purposes of: (1) NRS 202.357**, which prohibits the possession of electronic stun devices by, or the sale or giving of such devices to, a fugitive from justice; **(2) NRS 202.362**, which **prohibits the sale or disposal of firearms or ammunition to a fugitive from justice**; and **(3)**



**NRS 202.760**, which prohibits the shipment or receipt of explosives by a fugitive from justice. The new definition of “fugitive from justice” is based in part on the manner in which the term is defined in federal law and in part on the manner in which the term is defined under existing case law in Nevada. (18 U.S.C. § 921(15); *Ex parte Lorraine*, 16 Nev. 63, 63 (1881); *Castriotta v. State*, 111 Nev. 67, 69 n.2, 888 P.2d 927, 929 n.2 (1995))

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=928>

**Effective October 1, 2009**



## Procedure

### AB250

**Criminal Procedure**

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- AB250 Expert Affidavits
  - An affidavit regarding alcohol or drugs in breath, blood, or urine from an expert is admissible in any court in the State
  - Affidavit can be personally served in defense attorney

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**Related Court Cases:** *MELENDEZ-DIAZ v. MASSACHUSETTS* 557 US, \_\_\_\_ (2009) (SCOTUS, June 25, 2009) Holding: The admission of the certificates violated petitioner’s Sixth Amendment right to confront the witnesses against him.

*State, Dep’t of Motor Vehicles & Public Safety v. Bremer*, 113 Nev. 805, 942 P.2d 145 (1997)

*DeRosa v. First Judicial Dist. Court*, 115 Nev. 225, 985 P.2d 157 (1999): Overruled, *City of Las Vegas v. Walsh*, 121 Nev. 899, at 906, 124 P.3d

203 (2005)

Existing law provides that if a person is qualified as an expert in a district court in this State, the person’s affidavit or declaration regarding the presence in breath, blood or urine of alcohol or certain other substances or regarding the identity or quantity of a controlled substance may be admissible in certain proceedings.

Section 1 of this bill provides that for purposes of determining the admissibility of such affidavits or declarations, the person may be qualified in any court of record in this State, rather than only in a district court in this State. Section 1 also provides a definition of the term chemist for purposes of the provisions governing the admissibility of such affidavits and declarations. (NRS 50.320)

Section 2 of this bill authorizes a request to have such an affidavit or declaration admitted into evidence at trial for certain offenses to be personally served on the defendant’s counsel or the defendant, rather than only sent by registered or certified mail. (NRS 50.325)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=500>

**Effective October 1, 2009**

**Amends: NRS 50.320, NRS 50.325**

**AB499**

See: NV Supreme Court ADKT 411

**Criminal Procedure**

- AB499 Discovery
  - Requires DA to provide discovery (felony, gross misd.) no less than 5 days before the prelim



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Under existing law, a prosecutor is required to provide any defendant with copies of certain discovery, including, without limitation, documents, reports, tests, tangible objects and recorded statements, not less than 2 days before a preliminary examination is held. (NRS 171.1965) This bill requires a prosecutor to provide a defendant charged with a felony or a gross misdemeanor with copies of such discovery at the time when the defendant is brought before a magistrate after an arrest pursuant to NRS 171.178, or as soon as practicable thereafter, but in no event less than 5 days before a preliminary examination.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=961>

**Effective October 1, 2009**

**Amends: NRS 171.1965**

**SB34**

**Criminal Procedure**

- SB34 Recording of Prelims
  - A preliminary hearing, except for a death penalty or possible death penalty case, in justice court can be recorded – court reporter no longer mandatory
  - Will be a study committee to review court record procedures



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This bill authorizes a magistrate, when presiding over a preliminary hearing in justice court in a case where the death penalty is not sought, to choose whether to employ a certified court reporter or appoint a person to use sound recording equipment to record certain testimony and proceedings of the court. This bill also provides that if a magistrate presiding over such a proceeding appoints a person to use sound recording equipment: (1) the testimony and proceedings of the court must be recorded in accordance with certain existing laws; and (2) any transcripts produced from such recordings must be treated in the same manner as a transcript produced by a court reporter. (NRS 171.198)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=61>

**Effective May 22, 2009**

**Amends: NRS 171.198**

**SB35** – Section 1 of this bill amends existing law to provide that after a person is acquitted of a crime in another jurisdiction and a criminal prosecution is brought in the courts of this State for the same offense, the acquittal in the other jurisdiction may be introduced in evidence by the defendant in the prosecution in this State. (NRS 193.280)

**Section 1.5 of this bill revises the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country by eliminating the prohibition on the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another country.** (NRS 171.070)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=62>

**Effective July 1, 2009**

**SB45** – Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) This bill expands the list of prospective witnesses who may have their deposition taken to include older persons and vulnerable persons. (NRS 174.175) This bill also provides that a court may order the **deposition of an older person or a vulnerable person only upon good cause shown to the court.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=72>

**Effective June 4, 2009**

## SB84

### Criminal Procedure

- SB84 Alternative Sentencing
  - Allows cities to establish departments of alternative sentencing
  - Allows city departments of alternative sentencing to supervise justice court defendants



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Existing law authorizes the board of county commissioners of a county to create a department of alternative sentencing. (Chapter 211A of NRS) Sections 1-6 of this bill authorize the governing body of a county or a city to create a department of alternative sentencing.

Existing law provides for the administration of programs of supervision for certain persons with suspended sentences and persons sentenced to residential confinement by a justice court or municipal court. (NRS 4.372, 5.052) Section 7 of this bill authorizes the chief of the department of alternative sentencing of a city located within the county in which a justice court is located to administer the program of supervision for persons with sentences suspended by the justice court and persons sentenced to residential confinement by the justice court if the county does not have a department of alternative sentencing and such a department exists within any city located within that county.

Section 8 of this bill requires the chief of the department of alternative sentencing of the city in which a municipal court is located to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city has a department of alternative sentencing. Further, section 8 requires the chief of the department of alternative sentencing of the county in which a municipal court is located to administer the program of supervision for persons with sentences suspended by the municipal court and persons sentenced to residential confinement by the municipal court if the city in which the municipal court is located does not have a department of alternative sentencing and such a department exists within the county.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=165>

**Effective October 1, 2009**

**Amends: NRS Chpt. 211A, NRS 211A.010, NRS 211A.080, NRS 211A.100, NRS 211A.110, NRS 211A.130, NRS 4.372, NRS 5.052**


**Repeals: NRS 211A.030**

## **Public Nuisance/Gangs**

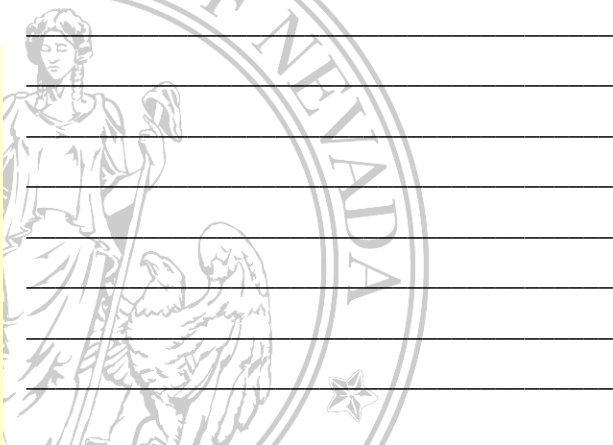
### **AB335**

**Criminal  
Public Nuisance/Gangs**

- AB335 Gangs and Nuisance
  - A building or place regularly used by gangs for crime constitutes a public or private nuisance
  - Allows counties and cities to create an ordinance authorizing them to seek an injunction against a gang and recover money damages



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Existing law provides that certain places used for certain illegal activities constitute a private nuisance, which creates civil liability and allows any person whose property is affected to bring a civil action to abate the nuisance and recover damages. (NRS 40.140) Section 3 of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a private nuisance.

Existing law also provides that certain places used for certain illegal activities constitute a public nuisance, and any person responsible for such a public nuisance who does not abate the public nuisance is guilty of a misdemeanor. (NRS 202.450, 202.470) Section 5 of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a public nuisance.

Sections 6 and 7 of this bill authorize the board of county commissioners of a county and the governing body of a city to adopt an ordinance authorizing the filing of a civil action, under certain circumstances, to: (1) enjoin the activities of a specific member of a criminal gang; and (2) recover money damages, attorney's fees and costs against a member of a criminal gang and the owner of a business or place that constitutes a nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang. Sections 6 and 7 also provide that a member of a

criminal gang who is subject to an injunction and who knowingly and intentionally commits a material violation of that injunction is guilty of a misdemeanor.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=666>

**Effective October 1, 2009**


**Amends: NRS 40.140, NRS 202.450, NRS Chpt. 244, NRS Chpt. 268**

**AB353**

**Criminal  
Public Nuisance/Gangs**

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- AB353 Public Nuisance
  - Allows a court to impose a civil penalty in addition to ordering the abatement of a public nuisance
  - Provide for new ordinances re: summary abatement and judicial review of decisions



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Existing law requires a court or magistrate to order an abatement of a public nuisance. Section 1 of this bill additionally requires the court or magistrate to impose a civil penalty on a person convicted of a public nuisance and provides additional procedures for the abatement of the nuisance, including, without limitation: (1) time limitations on the period during which the person must complete the abatement; and (2) procedures for an agency to abate the nuisance, at the discretion of the agency, if the person does not abate the nuisance. Section 1 also requires that civil penalties collected under this section be deposited in an account used only for abatement. (NRS 202.480)

Existing law authorizes a board of county commissioners to adopt an ordinance to secure a dangerous structure or condition. Section 2.5 of this bill amends existing law to authorize a board of county commissioners to adopt an ordinance to summarily abate certain dangerous structures or conditions and provides a process for providing the owner with notice of the summary abatement and for judicial review of the summary abatement. (NRS 244.3601)

Existing law authorizes a board of county commissioners to adopt an ordinance to administratively and on its own accord require an owner of a property to abate a dangerous structure, rubbish or noxious weeds. Section 3 of this bill expands those provisions to apply to the abatement of any other public nuisance as defined in the ordinance adopted by the board which prohibits a nuisance. (NRS 244.3605) Existing law authorizes the solid waste management authority in each county with a population of 400,000 (currently Clark County) to establish a program for the control of unlawful dumping. Section 5 of this bill removes the population threshold to authorize the solid waste management authority in each county to establish such a program. (NRS 444.629)

Existing law provides that if a person is convicted of unlawfully disposing certain waste or sewage, a court clerk who receives any civil penalties from the person for the violation must remit the money to the district health department if the health authority initiated the action. Section 6 of this bill requires the court clerk to remit the money to the district health department



also if a person, other than the health authority, who is authorized to enforce the provisions of NRS 444.630 initiated the action for a violation of NRS 444.630. (NRS 444.635)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=692>

**Effective October 1, 2009**

**Amends: NRS 202.480, NRS 244.3601, NRS 244.3605, NRS 444.629, NRS 444.635**

**SB142 – Section 2 of this bill establishes the crime of criminal gang recruitment**, which is committed when an adult uses or threatens to use physical violence against a child or against another person, or causes or threatens to cause damage to the property of the child or the property of another person, with the specific intent to coerce, induce or solicit the child: (1) to become a member of a criminal gang; (2) to remain a member of a criminal gang and not withdraw or disassociate himself from the criminal gang; or (3) to rejoin a criminal gang of which he is no longer a member or from which he has withdrawn or disassociated himself. The provisions of section 2 are patterned after similar statutory provisions in other states, such as Alaska, Arizona, Illinois, Indiana, Kansas, Kentucky, Maryland, Montana, South Carolina, Texas, Virginia and Washington.

Section 1 of this bill provides that a person who commits the crime of criminal gang recruitment is not subject to the additional penalty under existing law for crimes committed for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang. (NRS 193.168)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=377>

**Effective October 1, 2009**

## **Schools**

**AB56** – Existing law prescribes the requirements for the use of physical restraint or mechanical restraint on a pupil with a disability who is enrolled in a public school or a private school. (NRS 388.521-388.5315, 394.353-394.378) **Sections 1 and 7 of this bill require each school district and each private school which provides services to pupils with disabilities to submit annual reports to the Department of Education on the use of physical restraint and mechanical restraint on pupils with disabilities during the previous school year.**

Sections 3, 4, 9 and 10 of this bill provide that if physical restraint or mechanical restraint is used on a pupil with a disability three times during 1 school year, the circumstances of the restraint must be reviewed and reported. If such restraint is used five times during 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, developed pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., must be reviewed. If the restraint continues after such a review, the school district or private school, as applicable, and the pupil's parent or legal guardian shall include additional positive behavioral approaches in the pupil's services plan or program, as applicable, so that the restraint does not continue. (NRS 388.5275, 388.528, 394.368, 394.369)

Existing law prescribes the requirements for the use of mechanical restraint on a pupil with a disability enrolled in a public school or private school, including a requirement that the pupil's physician issue a medical order authorizing the use of mechanical restraint before the application of the restraint or not later than 15 minutes after the application of the restraint. (NRS 388.528, 394.369)

Sections 4 and 10 of this bill eliminate the requirement of a medical order for each application of the mechanical restraint and instead require that a medical order authorizing the use of mechanical restraint be included in the pupil's individualized education program or the pupil's services plan, as applicable.

Existing law provides that corporal punishment may not be used on a pupil in any public school. (NRS 392.4633) Section 6 of this bill provides that a person may report the use of

corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency finds that the report is substantiated, the agency shall forward the report to the Department, local law enforcement agency and the county district attorney for further investigation.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=132>

**Effective July 1, 2009**

**AB154** - Existing law authorizes the boards of trustees of school districts to establish policies prohibiting the activities of criminal gangs on school property. (NRS 392.4635) **This bill makes the establishment of that policy mandatory.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=326>

**Effective July 1, 2009**

**SB163** – The Department of Education is required to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) **Sections 1-9 of this bill revise the provisions governing safe and respectful learning environments to include a prohibition on bullying and cyberbullying.** (NRS 388.132, 388.133, 388.134, 388.135, 388.139)

Existing law requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for courses of study, including courses of study in computer education and technology. (NRS 389.520) Section 10 of this bill requires the standards of content and performance for courses in computer education and technology to include a policy for the ethical, safe and secure use of computers and other electronic devices. Section 7 of this bill requires each school district to adopt the policy for inclusion in its policy on the provision of a safe and respectful learning environment.

Existing law prohibits a person from using any means of oral, written or electronic communication to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to: (1) intimidate, frighten, alarm or distress the pupil or school employee; (2) cause panic or civil unrest; or (3) interfere with the operation of a public school. Section 11 of this bill specifically includes the use of cyber-bullying in these prohibited acts. (NRS 392.915)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=448>

**Effective July 1, 2009 and July 1, 2010**

# Sentencing/Parole/Probation/Post-Conviction

## Truth in sentencing and ghost of the 1995 session.

In 1995 The Nevada Legislature completely reworked much of the criminal law statutes and the penalties attached to the crimes. Before the 1995 session there were no classifications of crimes, no A, B et seq. The legislative intent was to cast light on the sentencing process and give the public and the convicted persons a realist view of crime and punishment. An Advisory Commission was created with the thought that people involved in the criminal justice system, judges, police, prosecutors, defense attorneys and other criminal justice people would meet regularly to examine the status of the “new laws” and hopefully have an organized effort to make the system fair and transparent. Until the 2009 session the commission had not really taken an active role as anticipated by the 1995 legislature.

Every legislative session since 1995 has had legislation passed illustrating that we are tough on crime. With piece meal legislative activities “truth in sentencing” was nearly impossible comprehend.

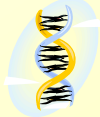
The 2009 session found the Advisory Commission actively involved in nearly two dozen pieces of legislation that passed in some form or the other. The legislation supported by the Commission was an effort to carry out the intent of the legislature from 1995 and an effort to “make sense” of criminal laws and penalties.

Below are several pieces of legislation from the 2009 session addressing “penalty issues”.

### AB105

**Criminal Sentencing/Parole/Probation/Post-Conviction**

- AB105 Genetic Marker Testing
  - Court order no longer required to obtain DNA sample from certain felons
  - Authorizes counties to accept gifts/grants/etc. to pay for DNA labs/testing



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Upon conviction of certain crimes, existing law provides for the issuance of a court order requiring: (1) certain personal identifying information of the defendant to be submitted to the Central Repository for Nevada Records of Criminal History; and (2) a biological specimen of the defendant to be obtained for genetic marker testing. (NRS 176.0913) Section 1 of this bill: (1) eliminates the need for a court order for these requirements; and (2) provides that the biological specimen is not required if the defendant previously submitted a biological specimen for a prior conviction.

Existing law provides that a defendant who submits a biological specimen for genetic testing must pay a fee for that testing, which is then deposited with the county treasurer for deposit in that county’s fund for genetic marker testing. Money remaining in the fund, after the county treasurer pays the actual costs of obtaining a biological specimen, must be distributed to forensic laboratories engaging in genetic marker testing for use for certain purposes. (NRS 176.0915) Section 2 of this bill authorizes a board of county commissioners to accept gifts, grants

and donations for the county's fund for genetic marker testing and expands the purposes for which a forensic laboratory which receives money from the county's fund may use that money.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=220>

**Effective July 1, 2009**


**Amends: NRS 176.0913, NRS 176.0915**

**AB117**

**Criminal  
Sentencing/Parole/Probation/Post-Conviction**

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- AB117 Parole
  - Allows Board to grant parole to certain inmates w/out a meeting in certain circumstances
  - Allows a member of the Board or hearing officer to recommend parole w/out a hearing in certain circumstances



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Section 4 of this bill authorizes the State Board of Parole Commissioners to grant parole to a prisoner without a meeting if the Board anticipates that parole will be granted. (NRS 213.130)

Section 5 of this bill provides that a member of the Board or a case hearing representative may recommend releasing a prisoner on parole without a hearing if certain conditions are met. Section 5 also provides that such a recommendation remains subject to final approval by a majority of the Board. (NRS 213.133)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=259>

**Effective July 1, 2009**


**Amends: NRS 213.130, NRS 213.133**

**AB168**

**Criminal  
Sentencing/Parole/Probation/Post-Conviction**

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- AB168 Substantial assistance
  - A court can reduce or suspend the sentence of a person convicted of drug trafficking if he/she offers assistance in the investigation or prosecution of another crime/offense
  - Court must state the reasons for reduction or suspension of sentence



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This bill provides that a court may reduce or suspend the sentence of a person convicted of trafficking in a controlled substance if the court finds that the person rendered substantial assistance in the investigation or prosecution of any offense. (NRS 453.3405) Additionally, this bill, which is modeled after the provisions contained in the Federal Sentencing Guidelines,

provides that any reduction or suspension of a sentence must be for specified reasons stated by the court. (18 U.S.C.S. Appx § 5K1.1)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=358>

**Effective May 18, 2009**


**Amends: NRS 453.3405**

**AB179**

**Criminal  
Sentencing/Parole/Probation/Post-Conviction**

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- AB179 Post-Conviction DNA
  - Expands option to petition a court for post-conviction genetic marker testing to prove innocence, in certain circumstances, from only persons convicted and sentenced to death, to all those convicted of an A or B felony



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Existing law provides that a person convicted of a crime and sentenced to death may petition a court to conduct post-conviction genetic marker analysis to prove a credible claim of innocence if the person meets certain requirements. For example, the person must show that the evidence has not previously been submitted to such analysis or that the method of analysis requested and the additional analysis may resolve an issue not resolved by previous analysis. (NRS 176.0918)

Section 1 of this bill amends existing law to allow any person who is convicted of a category A or B felony and under a sentence of imprisonment, regardless of whether he is under a sentence of death, to petition the court for post-conviction genetic marker analysis after meeting certain other requirements. This section provides that a petition must be made under penalty of perjury and must contain certain information. Further, this section provides for the court to determine whether to dismiss the petition, schedule a hearing or assign counsel to further review, supplement and present the petition to the court. This section also amends existing law to provide that genetic marker analysis may be performed on evidence previously submitted to analysis if: (1) the results of a previous analysis were inconclusive; (2) the evidence was not previously submitted to the type of analysis requested and the requested analysis may resolve an issue not resolved by the previous analysis; or (3) the requested analysis would provide results significantly more accurate and probative of the identity of the perpetrator. This section further requires the district attorney of the appropriate county, under certain circumstances, to notify the victims of the crime at issue in the petition of certain information related to the petition. (NRS 176.0918)

Section 3 of this bill provides that the new procedures set forth in the bill apply to persons who were convicted of an offense before, on or after the effective date of this bill.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=373>

**Effective October 1, 2009**

**Amends: NRS 176.0918, NRS 176.0919**



## AB239

### Criminal Sentencing/Parole/Probation/Post-Conviction

- **AB239 Habitual Criminal**
  - To be prosecuted for a category B felony as a habitual criminal a person must have two prior felony convictions
  - To be prosecuted for a category A felony as a habitual criminal a person must have three prior felony convictions
  - Petite larceny/fraud no longer count toward habitual status

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Existing law generally authorizes a prosecuting attorney to prosecute a person as a habitual criminal, punishable as a category B felony, if the person: (1) is convicted of petit larceny, a crime which involves fraud or the intent to defraud, or any felony; and (2) has previously been convicted two times of a felony or three times of petit larceny or certain other crimes involving fraud or the intent to defraud. This bill removes the provisions concerning convictions and prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. Thus, a person may be prosecuted as a habitual criminal, punishable as a category B felony, if he is convicted of a felony and has previously been convicted two times of a felony. (NRS 207.010)

Existing law provides that a person may be prosecuted as a habitual criminal, punishable as a category A felony, if the person: (1) is convicted of a felony; and (2) has previously been convicted three times of a felony or five times of petit larceny or certain other crimes which involve fraud or the intent to defraud. This bill removes the provisions concerning prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. Thus, a person may be prosecuted as a habitual criminal, punishable as a category A felony, if he is convicted of a felony and has previously been convicted three times of a felony. (NRS 207.010)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=484>

**Effective October 1, 2009**

**Amends: NRS 207.010**

## AB259

### Criminal Sentencing/Parole/Probation/Post-Conviction

- **AB 259 Less Restrictive Confinement**
  - For certain offenders it has long been a goal that could we keep the community safe and carry out a cost effective program. Under existing legislation the prison system was restrained from releasing any significant number of defendants into housing such as a "community correctional center". This legislation provides for more flexibility hopefully preserving safety to the public, rehabilitation of the convicted and more efficient utilization of resources. Amendments to NRS 209. 176A et seq.

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Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. Section 1 of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential

confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. Section 4 of this bill authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

Existing law provides that an offender who is sentenced to serve a period of probation for a felony and who demonstrates certain good behavior must be allowed certain deductions from his period of probation. Section 5 of this bill amends existing law to provide generally that a person who is sentenced to a period of probation for a felony or a gross misdemeanor and who is in compliance with the terms and conditions of his probation must be allowed a deduction from his period of probation of: (1) ten days for each month he serves and is current on any fee to defray the cost of his supervision and on any fines, fees and restitution ordered by the court; and (2) an additional 10 days for each month he serves and is actively involved in employment or enrolled in certain programs. (NRS 176A.500)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. Section 6 of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure perimeter. Further, section 6 of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

Section 3 of this bill amends chapter 213 of NRS, which governs parolees in a manner similar to section 6 of this bill. Section 3 provides that a parolee who is returned to confinement in a facility or institution of the Department of Corrections is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS, with the exception of certain credits which are earned by an offender who is released on parole. (NRS 213.152)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=513>

**Effective July 1, 2009**

## AB264

### Criminal Sentencing/Parole/Probation/Post-Conviction

- **AB264 Incompetent with No Substantial Probability**
  - Offenders who are deemed Incompetent with No Substantial Probability of attaining competency was addressed in amendments to NRS 178 et seq. This legislation was a follow up to legislation from the 2007 session that found defendants being sent to Lakes Crossing often with little justification. The A and B felonies that provide grounds for the prosecutor to file a motion for commitment to the Division of Mental Health has been narrowed. AB 264

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Existing law provides that if a court dismisses the proceedings against a defendant who is charged with a category A or category B felony because the court finds that the defendant is incompetent with no substantial probability of attaining competence in the foreseeable future, the prosecuting

attorney is authorized to file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services. Section 4 of this bill amends existing law to provide that a prosecuting attorney may file such a motion if a court dismisses the proceedings against a defendant who is charged with any category A felony or certain listed category B felonies, rather than a defendant who is charged with any category A or any category B felony. Section 4 also: (1) requires a prosecuting attorney who files such a motion to request the Division to provide a comprehensive risk assessment which indicates whether the person requires the level of security provided by a forensic facility; and (2) requires the Division to provide the comprehensive risk assessment to the court, the prosecuting attorney and the person's counsel. (NRS 178.461)

Existing law also provides that if the court finds by clear and convincing evidence that the person has a mental disorder and is a danger to himself or others, the court is required to order that the person be committed to the custody of the Administrator until he is eligible for conditional release or after 10 years have passed, whichever period is shorter. Section 4 of this bill amends existing law to: (1) add that the person's dangerousness is required to be at a level that requires placement of the person at a forensic facility as a prerequisite to the court committing the person to the custody of the Administrator; and (2) authorize, rather than require, the court to commit a person to the custody of the Administrator in those circumstances. (NRS 178.461) Section 1 of this bill defines the term "forensic facility" for the purposes of those provisions. Existing law provides the manner for determining eligibility for conditional release of a person committed to the custody of the Administrator pursuant to section 4 of this bill. Section 5 of this bill authorizes the Division or a person who is committed to the custody of the Administrator to petition the court which committed the person for conditional release. (NRS 178.463)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=525>


**Effective October 1, 2009**

**AB279**

**Criminal  
Sentencing/Parole/Probation/Post-Conviction**

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- AB279 Preservation of biological evidence
  - A criminal justice agency must preserve any biological evidence used to investigate, prosecute, and convict a person of category A or B felony until that person's sentence has expired.



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Section 2 of this bill provides that upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that possesses any biological evidence secured in connection with the investigation or prosecution of the defendant is required to preserve such evidence until the expiration of any sentence imposed on the defendant.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=557>

**Effective October 1, 2009**

**Amends: NRS Chpt. 176, NRS 176.0911**

## AB474

### Criminal Sentencing/Parole/Probation/Post-Conviction

- AB474 Juveniles in prison
  - A sixteen year old in adult prison generated amendments to NRS 213., 176. et seq. Providing potential relief for a person sentenced to prison for an offense committed prior to their 16th birthday. AB 474



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Existing law provides that a prisoner may be sentenced to consecutive sentences of imprisonment and may be paroled from a current term of imprisonment to a subsequent term of imprisonment. (NRS 176.035) Section 2.5 of this bill provides that eligibility for parole of a prisoner sentenced to two or more consecutive sentences of life imprisonment with the possibility of parole: (1) for offenses committed on or after July 1, 2009, must be based upon the aggregation of the minimum sentences for those offenses; and (2) for offenses committed before July 1, 2009, may, at the option of the prisoner, be based upon the aggregation of the minimum sentences for such offenses, provided that the prisoner has not previously been considered for parole.

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) Section 3 of this bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed a program of general education or an industrial or vocational training program; (3) not been identified by the Department of corrections as a member of a group posing a security threat; and (4) not committed a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation within the immediately preceding 24 months.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=919>

**Effective July 1, 2009, and October 1, 2009**

**SB44** – Existing law authorizes the Director of the Department of Corrections to designate employees of the Department as peace officers. (NRS 289.220) Existing law also classifies peace officers as being within category I, category II or category III; peace officers in each category are designated as having certain powers and must meet certain training and educational requirements. (NRS 289.460, 289.470, 289.480) Under existing law, a category III peace officer is a peace officer whose authority is limited to correctional services, including the superintendents and correctional officers of the Department. (NRS 289.480) **This bill provides that the Inspector General of the Department and criminal investigators of the Department are category II peace officers.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=71>

**Effective July 1, 2009**

**SB236**

**Criminal  
Sentencing/Parole/Probation/Post-Conviction**

- SB236
  - Creates the fund for re-entry programs under the control of the Director of the Department of Public Safety or his designee



**Rehabilitation**

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Existing law authorizes the establishment by a judicial district and by the Director of the Department of Corrections of programs for reentry of criminal offenders and parolees into the community. (NRS 209.4883, 209.4887) Section 5 of this bill creates the Fund for Reentry Programs to be administered by the Director of the Department of Public Safety or his designee. Money in the Fund may be used only to pay necessary administrative costs and to pay for programs for reentry of persons into the community upon their release from incarceration. <http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=645>

**Effective July 1, 2009**

**Amends: NRS 209.4889, NRS Chpt. 480**

**SB238**

**Civil  
District Court**

- SB 238 Expedited Process for Restoration of Civil Rights
  - State Board of Pardons Commissioners (Board) may grant request for restoration of civil rights w/out hearing if:
    - No objection from court
    - No objection from DA
    - No request for notice from victim



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Existing law provides for the automatic restoration of certain civil rights after honorable discharge from probation or parole, release from prison or the sealing of records. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) Existing law also authorizes certain criminal offenders to apply to the State Board of Pardons Commissioners to have their civil rights restored. Existing law further provides for the Board to consider such applications at a meeting after providing notice to the district attorney, the district judge of the county where the person was convicted and, if requested, to each victim of a crime committed by the person whose application is being considered. (NRS 213.010, 213.020, 213.040)



Section 1 of this bill authorizes the Board to adopt a policy to provide for an expedited process to take action, without holding a meeting, to restore the civil rights of certain persons under certain circumstances.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=648>

**Effective October 1, 2009**

**Amends: NRS Chpt. 213, NRS 213.020**


## **Sex Offenses/Prostitution/TPO**

**AB88**

**Criminal**  
**Sex Offenses/Prostitution/TPO**

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- AB88 Child Porn
  - Prohibits the use of the internet to control child porn
  - Establishes a civil cause of action for a person, who while under 16, suffered psychological or personal injury as a result of being depicted in child porn (actual damages equal to or greater than \$150,000)



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Section 1 of this bill prohibits a person from using the Internet to control child pornography. Section 4 of this bill establishes a civil cause of action for a person who, while under the age of 16 years, appeared in child pornography and suffered personal or psychological injury as the result. A person who prevails in such an action may recover his actual damages, which are deemed to be at least \$150,000, plus attorney's fees and costs. Section 3 of this bill establishes the statute of limitations for such an action.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=187>

**Effective October 1, 2009**


**Amends: NRS Chpt. 200, NRS 200.700, NRS 11.215, NRS Chpt. 41**

**AB120**

**Criminal**  
**Sex Offenses/Prostitution/TPO**

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- AB120 Sexual Assault TPO
  - Allows a victim of sexual assault to seek a temporary protection order (or extended) against the person who ALLEGEDLY committed the sexual assault (justice court)



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Existing law authorizes a victim of stalking, harassment or aggravated stalking to seek a temporary or extended protective order against the person who allegedly committed the crime against the victim. (NRS 200.591) Existing law also: (1) provides for the deferment of fees

related to such orders; (2) fixes the duration of such orders; (3) provides for such orders to be transmitted to and enforced by law enforcement; and (4) requires the court to provide a victim with a copy of the court order if a condition of the defendant's sentence restricts the ability of the defendant to have contact with the victim. (NRS 200.592-200.601) Section 3 of this bill similarly authorizes a victim of sexual assault to seek a temporary or extended order of protection against the person who allegedly committed the sexual assault against him.

Sections 4-7 of this bill provide the same requirements for fees, duration, transmission, enforcement and information provided for such orders of protection for a victim of sexual assault as are provided in existing law for similar orders of protection for a victim of stalking, harassment or aggravated stalking.

Section 1 of this bill includes a violation of a temporary or extended order of protection against a person who allegedly committed a sexual assault to the list of violations which may result in an additional penalty. (NRS 193.166)

Section 9 of this bill expands the jurisdiction of justice courts to include actions for the issuance of a temporary or extended order of protection against a person who allegedly committed a sexual assault. (NRS 4.370)

Section 11 of this bill exempts actions involving orders of protection for a victim of sexual assault from the requirement that the Supreme Court adopt rules and procedures for jury trials in justices' courts that are designed to limit the length of such trials. (NRS 67.060)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=262>

**Effective May 11, 2009**

**Amends: NRS 193.166, NRS Chpt. 200, NRS 200.364, NRS 4.370, NRS 62C.020, NRS 67.060, NRS 178.484**

**AB238**

**Criminal  
Sex Offenses/Prostitution/TPO**

- AB238
  - Solicitation of child prostitution is now a category E felony
  - Solicitation of 'regular' prostitution remains misdemeanor



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Existing law provides that any person who engages in solicitation for prostitution is guilty of a misdemeanor. (NRS 201.354) This bill provides that a person who solicits a child for prostitution is guilty of a category E felony.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=483>

**Effective October 1, 2009**

**Amends: NRS 201.354**

**AB309**

**Criminal  
Sex Offenses/Prostitution/TPO**

- AB309 Stalking TPO
  - Revises definition of stalking to include a course of conduct that a reasonable person to feel fear for the safety of a family member or household and which cause the victim actual fear
  - Stalking by text message is a category C felony
  - Clean indoor air act changes

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Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the immediate safety of a member of the person’s family or household and which actually causes a victim to feel such fear. Sections 1, 3 and 4 of this bill add text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

The Nevada Clean Indoor Air Act, which is currently codified as NRS 202.2483, was proposed by an initiative petition and approved by the voters at the 2006 General Election and therefore is not subject to legislative amendment or repeal until after December 8, 2009. The Act generally prohibits the smoking of tobacco in certain locations, such as within indoor places of employment, within school buildings and on school property. Section 1.5 of this bill revises the provisions of the Act by authorizing the smoking of tobacco in certain convention facilities during certain meetings and trade shows.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=611>

**Effective: Sections 1, 3, 4, and 5 of this act effective October 1, 2009. Section 1.5 of this act effective December 9, 2009**

**Amends: NRS 200.575, NRS 202.2483, NRS 176A.413, NRS 213.1258**

**AB325** - Existing law provides that if a person is convicted of certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and probation officer. (NRS 176A.410, 213.1245) Sections 1 and 2.5 of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. Section 2 of **this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief.** (NRS 213.1243)

Sections 1.1-1.5 of this bill expand the prohibition on the public disclosure of the identity of a victim of a sexual assault to include a victim of statutory sexual seduction or sexual conduct involving a pupil or student.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=646>

**Effective October 1, 2009**

**AB380**

**Criminal  
Sex Offenses/Prostitution/TPO**

- AB380 Pandering
  - The assets of a person who commits pandering or prostitution of a child are subject to forfeiture, and such assets may be frozen by temporary restraining order.
  - Additional penalty for above referenced crimes.

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Existing law establishes several crimes relating to pandering or prostitution, including: (1) pandering by inducing a person to become a prostitute through threats or other actions; (2) pandering by placing a spouse in a house of prostitution through force, fraud, intimidation or threats; (3) living from the earnings of a prostitute; (4) pandering by detaining a person in a house of prostitution because of any debt; and (5) pandering by furnishing transportation to induce a person to become a prostitute or engage in prostitution. (NRS 201.300-201.340) Section 2 of this bill provides that: (1) the assets of a person who commits an offense involving the pandering or prostitution of a child are subject to forfeiture; and (2) in a proceeding for such a forfeiture, a temporary restraining order may be entered by the court to freeze the assets of such a person. Sections 2 and 5.5 of this bill require the proceeds of the forfeiture, which remain after satisfying certain protected interests and paying certain expenses related to the forfeiture proceeding, be distributed to programs for the prevention of child prostitution which are designated by the district attorney of the county.

Section 3 of this bill provides that, in addition to the criminal penalties prescribed by statute, a court may impose additional criminal fines on a person who is convicted of an offense involving pandering or prostitution of a child.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=753>

**Effective October 1, 2009**

**Amends: NRS Chpt. 201, NRS 201.295, RS 179.118, NRS 179.121**

**Traffic/DMV/Motor Vehicles/DUI**

**AB25** – Existing law authorizes the Department of Motor Vehicles to waive certain examinations for a person applying for a Nevada driver’s license who possesses a valid driver’s license of the same type or class issued by another jurisdiction but does not allow such a waiver if the person has not attained 25 years of age. (NRS 483.330) **Section 1 of this bill prohibits such a waiver for a person who has not attained 21 years of age, subject to certain exceptions.**

Existing law authorizes the Department to require every applicant for a driver’s license to submit to an examination that may include components which test the applicant’s knowledge, skills and abilities. (NRS 483.330) **Section 1.5 of this bill requires the Department to charge a fee of \$25 for the administration of the examination for a noncommercial driver’s license and a fee of \$10 for each readministration of that examination to the same person.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=88>

**Effective July 1, 2009**

**AB109** – Existing law provides that license plates furnished for certain exempt vehicles maintained for and used by certain governmental entities must be free of distinguishing marks

which would otherwise identify the vehicle as a governmental vehicle. (NRS 482.368) **Section 1.3 of this bill adds two vehicles used by the office of a county coroner to the list of vehicles for which license plates without a distinguishing mark must be furnished.**

Existing law authorizes the Department of Motor Vehicles to issue special license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if the Department receives at least 1,000 applications for the issuance of the special license plates before May 29, 2009. (NRS 482.379375) Sections 1 and 1.7 of this bill delete the provisions which authorize the Department to issue such special plates only if the Department receives at least 1,000 applications before May 29, 2009.

Under existing law, if the Department issues special license plates for use on a passenger car or light commercial vehicle and if those special license plates generate financial support for a charitable organization, the Department is authorized to issue the special license plates for use on a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, but is prohibited from issuing the special license plates for use on a motorcycle or heavy commercial vehicle. (NRS 482.3824) Effective July 1, 2010, section 2 of this bill removes the prohibition against the Department issuing such special license plates for use on motorcycles and provides further that the fees for special license plates issued for use on vehicles other than passenger cars or light commercial vehicles must be the same as if the special license plates were issued for use on a passenger car or light commercial vehicle.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=245>  
**Effective May 26, 2009, and July 1, 2010**

**AB163**

**Criminal  
Traffic/DMV/Motor Vehicles/DUI**

- AB163 Low -Emission Vehicles
  - NDOT can adopt regulations allowing low-emission vehicles (EPA defined) to travel in the carpool lane
  - Counties and cities can adopt an ordinance allowing certain low-emission vehicles (i.e. golf carts) to use special lanes in planned communities



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**Related Federal Law: 23 U.S.C. § 166(f)(3)**

Section 1.5 of this bill authorizes the Department of Transportation to adopt regulations to allow certified low emission and energy-efficient vehicles to be operated in a lane on a highway under its jurisdiction designated for the preferential use or exclusive use of high-occupancy vehicles. Section 1.7 of this bill authorizes counties and cities to adopt ordinances that allow certain low emission and energy-efficient vehicles, including golf carts, to travel in designated lanes within planned communities.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=346>

**Effective: Sections 1.7 and 2 of this act effective May 6, 2009. Section 1.5 of this act effective: (a) May 6, 2009, for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and (b) July 1, 2010, for all other purposes**

**Amends: NRS Chpt. 484**



**AB169 – This bill adds vehicles that provide towing services or the transportation of household goods to the list of vehicles that must be impounded if operated without a required certificate of public convenience and necessity to authorize their operation.**



<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=359>

**Effective October 1, 2009**

**AB209**

**Criminal  
Traffic/DMV/Motor Vehicles/DUI**

- AB209 Victim Impact Panel
  - Requires that a person convicted of misd. DUI attend a **live and in-person** victim impact panel, unless that person lives outside a 60 mile radius of such a program



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This bill requires an offender who is convicted of an offense relating to driving under the influence to attend a live meeting of a panel of victims in person, unless such a meeting is not available within 60 miles of the offender’s residence.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=423>

**Effective October 1, 2009**

**Amends: RS 484.3797**

**AB247 – Existing law provides that every person riding a bicycle upon a roadway is generally subject to the provisions of chapter 484 of NRS which apply to drivers of vehicles. (NRS 484.503) Existing law requires the driver of a vehicle to signal an intention to turn from a direct course continuously during not less than the last 100 feet traveled in a business or residential district and not less than the last 300 feet traveled in any other area. (NRS 484.343) **Section 2 of this bill exempts the operator of a bicycle from these requirements and instead requires the operator only to signal his intention to turn at least one time, unless the bicycle is in a designated turn lane or when safe operation of the bicycle requires the operator to keep both hands on the bicycle.****

Existing law provides for the methods of giving signals by hand and arm. (NRS 484.347) Section 3 of this bill authorizes an operator of a bicycle to signal for a right turn by extending his right hand and arm horizontally and to the right side of the bicycle.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=497>

**Effective October 1, 2009**

**AB296 – Section 1 of this bill revises the exemption from the requirement to obtain a certificate of public convenience and necessity for nonprofit carriers of elderly persons or persons with disabilities based upon the size of the county in which the carrier operates. (NRS 706.745)**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=579>

**Effective January 1, 2010**

**AB333** – Section 1 of this bill requires the Nevada Transportation Authority to reduce any charge for preparing or satisfying a lien which is filed by the operator of a tow car if the Authority determines that all or part of the charge is attributable to the operator’s failure to prepare or satisfy the lien in a timely manner. (NRS 706.4468)

Existing law presumes that an abandoned motor vehicle was abandoned by its registered owner. The registered owner is thus responsible for the costs of removing and disposing of the vehicle. Existing law also provides for the rebuttal of this presumption. (NRS 487.220) Section 2 of this bill provides a similar presumption, and opportunity for rebuttal, for the registered owner of a vehicle that is towed at the request of the owner of real property from which the vehicle is towed. (NRS 706.4477)

Existing law provides that if an operator of a tow car tows a motor vehicle at the request of someone other than the owner, the operator is required to notify the owner of certain information within a particular period of time. (NRS 706.4479) Section 3 of this bill adds to the list of the information that must be provided notice to the registered and legal owner of the vehicle as to the actions the owner may take to reduce his liability for any potentially applicable assessments, fees, penalties or other charges, and as to the opportunity to rebut presumptions about the ownership of a vehicle.

**Section 4 of this bill authorizes a person who transfers ownership of a motor vehicle to notify the Department of Motor Vehicles of the transfer electronically. Section 4 also authorizes the Department to provide information regarding vehicle ownership transfers to tow car operators and other interested parties. (NRS 482.400)**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=664>

**Effective July 1, 2009, and October 1, 2009**

**AB372** – Under existing law, the Department of Motor Vehicles collects an additional registration fee on every motortruck, truck-tractor or bus in this State based on the declared gross weight of the vehicle, and it is unlawful for a person to operate a motor vehicle on the highways of this State if the motor vehicle exceeds its declared gross weight. (NRS 482.482, 484.744)

**Section 5 of this bill amends provisions to require a person who has been convicted of or who pleaded guilty to operating a motortruck, truck-tractor or bus on the highways of this State in excess of the declared gross weight of the vehicle to reregister the vehicle based on its actual gross vehicle weight rating or combined gross vehicle weight rating, as applicable. Sections 2 and 3 of this bill provide that the definitions of the terms “gross vehicle weight rating” and “combined gross vehicle weight rating” are based on the maximum gross weight designated by the manufacturer at which the vehicle or combination of vehicles can be operated.**

Sections 7 and 8 of this bill add the definitions of “gross vehicle weight rating” and “combined gross vehicle weight rating” to chapter 706 of NRS, regarding motor carriers. Section 9 of this bill authorizes the Department to impose various administrative fines for violations of chapter 706 of NRS, and section 10 of this bill provides that the Department shall require a bond from any common motor carrier, contract motor carrier or private motor carrier of property who is determined by the Department to be habitually delinquent in payments of amounts due to the Department pursuant to chapter 706 of NRS.

Existing law provides that certain motor carriers may purchase a temporary permit to travel over the highways of this State in lieu of obtaining certain licensing and registration in this State. (NRS 706.521) Under existing law, the temporary permit must be purchased by the motor carrier from the nearest available vendor to the point of entry into the State before or after entering the State, or from the first vendor located along the route of travel. (NRS 706.541)

Section 13 of this bill amends the provision regarding purchase of a temporary permit to require a motor carrier to purchase the temporary permit before entering the State.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=728>

**Effective July 1, 2009**

**AB407** – A person whose driver’s license or commercial driver’s license has been suspended or revoked for a violation relating to driving under the influence of alcohol or a controlled substance, or has been suspended, revoked, cancelled or disqualified for other reasons, must pay a fee to reinstate his license. (NRS 483.410, 483.910) **This bill increases the amount of the fee.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=794>

**Effective July 1, 2009**

**AB412** – **This bill makes it lawful for an operator of a tow car to tow a vehicle occupied by a person with restricted mobility or a person who is in a hazardous situation provided that the person is properly restrained and, if required by law, wearing a seat belt.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=800>

**Effective May 6, 2009**

**AB417** – Existing law sets forth the conditions under which the driver of a vehicle may pass another vehicle on the right. (NRS 484.297) **Section 1 of this bill authorizes a driver to pass another vehicle on the right on a highway with unobstructed pavement which is not marked as a traffic lane and which is not occupied by parked vehicles, if the vehicle that is passing: (1) does not travel more than 200 feet in the section of pavement not marked as a traffic lane; or (2) while being driven in the section of pavement not marked as a traffic lane, does not travel through an intersection or past any private driveway that is used to enter or exit the highway.**

Existing law prohibits certain driving maneuvers on a controlled-access highway. (NRS 484.311) Section 2 of this bill provides that, unless required to do so because of an emergency, the driver of a vehicle is prohibited from driving the vehicle: (1) upon any portion of a controlled-access highway that lies outside of marked traffic lanes or marked entrance or exit lanes; or (2) across any solid white line that separates an entrance or exit lane from a marked traffic lane. A person who violates any provision of this bill is guilty of a misdemeanor. (NRS 484.999) In addition, the penalty is doubled if the violation occurs in a work zone. (NRS 484.3667)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=805>

**Effective July 1, 2009**

**AB441** – Section 1 of this bill requires that electric bicycles be allowed on any trail or pedestrian walkway that is intended for use by bicycles and is constructed using certain federal funds. Section 1.3 of this bill requires the Department of Public Safety to include electric bicycles in educational programs concerning bicycle safety. (NRS 480.700) **Sections 1.7-8.7 of this bill exclude electric bicycles from vehicle licensing and registration requirements. Sections 10-13 of this bill exclude electric bicycles from the provisions requiring vehicle drivers’ licenses. Section 14 of this bill adds electric bicycles to the requirements for the program of safety education. Sections 15-30 of this bill provide that electric bicycles are subject to the same traffic laws and various other requirements as bicycles.** Section 35.5 of this bill requires the Motor Vehicle Recovery and Transportation Planner of the Department to include electric bicycles in the development and administration of plans relating to the establishment, construction and maintenance of bicycle lanes and routes in this State. (NRS 408.234)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=830>

**Effective October 1, 2009**

**AB475**

**Criminal  
Traffic/DMV/Motor Vehicles/DUI**

- AB475 NRS Chpt. 484 Reorganization
  - This measure reorganizes NRS Chapter 484 to improve usability and clarity into 5 sections:
    - NRS 484A: General provisions
    - NRS 484B: Rules of the Road
    - NRS 484C: Driving Under the Influence
    - NRS 484D: Equipment, Inspections and Size, Weight and Load of Vehicles
    - NRS 484E: Accidents and Reports of Accidents



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This bill was requested by Chairman Anderson after we met with some judges of the justice courts and attorneys who determined that the laws relating to DUIs had become difficult to follow. Because of the manner in which chapter 484 of NRS had expanded over the years, the provisions had become scattered and were causing the justice courts difficulty in applying the laws in a consistent manner. Initially, they asked Chairman Anderson to submit a bill to rearrange the provisions of chapter 484 of NRS relating to DUIs to make it easier to follow and apply.

However, the Legislative Counsel has authority to move statutes in codification and rearrange provisions of NRS to keep the NRS consistent and orderly. I offered to look at the chapter to see if this was something that we could just take care of in codification. When I reviewed chapter 484 of NRS I discovered that the problems were not just limited to the DUI provisions.

- 1) Chapter 484 of NRS currently consists of 258 pages. There are so many sections in the chapter that the numbering has become difficult, with many sections with numbers up to 5 digits past the decimal.
- 2) Penalties and prohibited acts for DUIs are not placed together and are difficult to identify.
- 3) There are 100 definitions for the chapter, making it difficult to know what terms are necessary for a particular statute.

We determined that it would be a worthwhile project to take the time to clean up the provisions to make them easier to use and understand. Although the initial request was to reorganize the laws relating to DUI, we decided to reorganize the entire chapter by dividing chapter 484 into 5 distinct chapters organized by related topics. We thought this would make the provisions easier to use and it would also make it easier for the Legislature to amend and revise the laws in the future. With that, we went ahead and prepared a draft of the recodification all of the provisions of chapter 484 of NRS.

After completing the codification project, we contacted other parties who frequently use and refer to Chapter 484 of NRS, including the Department of Motor Vehicles, the Nevada Highway Patrol and the Department of Transportation. These groups had many questions about the effect and impact of these changes. In addition, we were informed that there would be a huge cost associated with changing the organization of this chapter. One of the major concerns had to do with their citations and instruction manuals which all cite to the current NRS. They were concerned that if we changed the numbering that these would be invalid, or someone would argue they did not have notice. To address some of the concerns and to alleviate a large part of the cost that was identified, Chairman Anderson agreed to ask for a bill draft.

AB 475 essentially does three things with respect to chapter 484 of NRS:



1) It provides that if the Legislative Counsel renumbers any section of the NRS for any reason, the citation to the previously assigned number in a legal document, manual, sign or other place shall be deemed to have the same meaning and effect as though the citation were to the new number.

2) The bill directs the Legal Division to reorganize Chapter 484 of NRS in the next revision of the statutes. Although we don't really need additional legislative authority for this, because of the objections that were raised, we wanted to allow a forum for discussion on this topic. In addition, to avoid any excessive cost as a result of the re-codification of chapter 484, the bill directs that the new numbers assigned during codification be used in citations, publications and other places only as replacements become necessary. Thus, there is no need for anyone to run out and pull out all the signs, or to reprint all of the citations or manuals.

3) The bill also repeals a couple of obsolete definitions that were identified that are no longer used in any section in the chapter.

[Note: the Legislative Counsel agreed that if we go forward with this re-codification of chapter 484 of NRS, the current citations will remain in the NRS for at least 5 years, and longer if necessary. Thus, leadlines and numbers with a reference as to where the section was moved to will remain in the statutes for at least 5 years.

NRS 484A: General Provisions

NRS 484B: Rules of the Road

NRS 484C: Driving Under the Influence

NRS 484D: Equipment, Inspections and Size, Weight and Load of Vehicles

NRS 484E: Accidents and Reports of Accidents

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=920>

**Effective May 19, 2009**

## SB100

### **Criminal Traffic/DMV/Motor Vehicles/DUI**

- SB100 DUI License Revocation
  - Allows DMV to treat any third, or subsequent, DUI within 7 years as a felony offense for purposes of revocation of a driver license, regardless of how the conviction is treated for sentencing purposes by the court



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**Related Court Cases:** *State, Dep't of Motor Vehicles v. Terracin*, 01/29/09 Affirmed 125 Nev. \_\_\_, 199 P.3d 835

Under existing law, the driver's license of a person convicted of driving under the influence is revoked for a certain period depending upon whether the violation is punishable as a first, second or third or subsequent violation that occurs within a period of 7 years. (NRS 483.460) This bill provides that the period of revocation of the driver's license of such a person must be based upon the total number of previous violations within a period of 7 years, regardless of how the violation is treated for sentencing purposes.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=201>

**Effective, July 1, 2009**

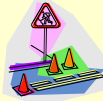
**Amends: NRS 483.460, NRS 483.490**



**SB134**

**Criminal  
Traffic/DMV/Motor Vehicles/DUI**

- SB134 Double Penalties in Work Zone
  - This bill provides that the additional penalty must also be imposed if the offense occurs within a temporary traffic control zone in which workers are performing work other than highway maintenance or construction.



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Existing law requires the doubling of the penalty imposed against a person convicted of speeding or convicted of certain other traffic offenses that occur in a highway construction zone if: (1) workers are present; or (2) the effects of the offense are otherwise aggravated because of certain highway conditions that exist as a result of the highway construction. (NRS 484.3667)

Section 1 of this bill provides that the additional penalty must also be imposed if the offense occurs within a temporary traffic control zone in which workers are performing work other than highway maintenance or construction. Section 2 of this bill removes the requirement that a governmental entity or person with whom the governmental entity contracts post signs to mark the beginning and end of a temporary traffic control zone under certain circumstances. Section 2 also provides that a person is not subject to the additional penalty if the violation occurred in a temporary traffic control zone which is not required to be marked, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=341>

**Effective, October 1, 2009**

**SB199** – Existing law requires that vehicles required to be weighed pursuant to chapters 482 and 706 of NRS be weighed by a public weighmaster. (NRS 482.485, 706.276) **This bill allows a farmer or rancher to instead weigh his farm vehicle on a certified scale and use a printout from that scale as proof of the declared gross weight of the farm vehicle for purposes of registration or temporary permitting.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=558>

**Effective July 1, 2009**

**SB217** – Under existing law, the Department of Motor Vehicles is prohibited from releasing personal information from a file or record relating to a driver’s license or identification card except under certain circumstances. (NRS 481.063) Existing federal law requires every male citizen of the United States and every other male residing in the United States who is at least 18 years of age but less than 26 years of age to register with the Selective Service System. (50 U.S.C. App. § 453) **Sections 3-5 of this bill require the Department of Motor Vehicles to forward to the Selective Service System the personal information necessary for registration with the Selective Service System of any applicant for a driver’s license, instruction permit, restricted license, special restricted license, identification card or commercial driver’s license, or for a duplicate or substitute of such a license or permit, or for the renewal or reinstatement of such a license or permit, who is required to register with the Selective Service System and who indicates by checking a box on the application that he wishes the**

**Department to forward such information.** This bill also requires the Department of Motor Vehicles to include on the application for any such license or permit a notice that registration with the Selective Service System in compliance with federal law maintains the eligibility of the applicant for various federal benefits.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=606>

**Effective May 22, 2009, and July 1, 2010**

**SB240 – This bill establishes the State Route 159 Safety Speed Zone to provide for the evaluation and establishment of the maximum speed on portions of State Route 159** that: (1) are within the Red Rock Canyon National Conservation Area; (2) abut or are immediately adjacent to the Red Rock Canyon National Conservation Area; or (3) have been designated as a Scenic Byway or State Scenic Byway.


<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=655>

**Effective July 1, 2009**

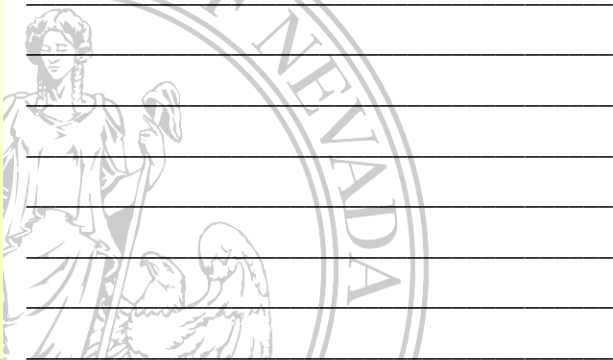
### SB243

**Criminal  
Traffic/DMV/Motor Vehicles/DUI**

- SB243 Commercial Enforcement
  - Cat. I peace officers and DMV and DPS inspectors in Washoe and Clark Counties can now enforce commercial vehicle weight regulations (stop and weigh)



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Existing law provides that the Nevada Highway Patrol has authority for the enforcement of certain requirements relating to the size and weight of certain vehicles being operated on the highways of this State. (NRS 484.755) This bill expands that authority to include law enforcement agencies in counties with a population of 100,000 or more (currently Washoe and Clark Counties) in the State and authorizes certain category I peace officers and certain inspectors of the Department of Motor Vehicles and the Department of Public Safety to require the driver of certain vehicles to stop and submit to a weighing of the vehicle.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=658>

**Effective October 1, 2009**




**Amends: NRS 484.755**

**SB251**

**Criminal**  
**Traffic/DMV/Motor Vehicles/DUI**

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- SB251 Tow Car Changes
  - Motorists must now decrease speed, proceed with caution, be prepared to stop, and not drive in an adjacent lane to a tow car that is stopped with its amber warning lights flashing
  - Authorizes the display of amber warning lights on private patrol cars in certain circumstances



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Existing law authorizes the operator of a tow car to equip the tow car with flashing amber warning lights pursuant to a permit issued by the Nevada Highway Patrol. (NRS 484.579) Section 1.5 of this bill authorizes the use of flashing amber warning lights on a tow car when the tow car is at the scene of a traffic hazard.

Section 3 of this bill requires a driver, upon approaching a tow car which is stopped and is making use of flashing amber warning lights to: (1) decrease the speed of his vehicle; (2) proceed with caution; (3) be prepared to stop; and (4) if possible, drive in a lane that is not adjacent to the lane in which the tow car is stopped. (NRS 484.364)

Section 4 of this bill authorizes a tow car operator who during daylight attends to a motor vehicle disabled on the highway to place a red flare, red lantern, warning light or reflector in close proximity to each warning sign which the operator is required to place upon the highway in the vicinity of the disabled motor vehicle. (NRS 484.499)

Sections 2.5 and 5 of this bill authorize the Nevada Highway Patrol to issue a permit authorizing the display of flashing amber warning lights on a vehicle operated by a licensed private patrolman or his employee when the private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed and the vehicle is: (1) on private property which the private patrolman is authorized to protect; (2) on a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or (3) on a public road and moving at a speed slower than the normal flow of traffic. Section 5 requires the Nevada Highway Patrol to charge and collect certain fees for the issuance of permits to display flashing amber warning lights on a vehicle, including a vehicle operated by a licensed private patrolman or his employee. (NRS 484.579)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=690>

**Effective July 1, 2009**

**Amends: NRS Chpt. 484, NRS 484.364, NRS 484.499, NRS 484.579**

**SB360** – Existing law provides that only a licensed automobile wrecker, dealer of new or used motor vehicles or rebuilder may bid to purchase a vehicle from the operator of a salvage pool. (NRS 487.470) **Section 5 of this bill authorizes a person other than an automobile wrecker, dealer of new or used motor vehicles or rebuilder to bid to purchase a vehicle other than a nonrepairable vehicle from the operator of a salvage pool, but prohibits the person from: (1) purchasing more than three such vehicles in any calendar year from operators of salvage pools in this State; (2) purchasing such vehicles for resale; (3) bidding to purchase a nonrepairable vehicle; or (4) assisting, soliciting or conspiring with another person to engage in any of those acts.**

Section 2.3 of this bill requires such a person, before he bids to purchase a salvage vehicle, to obtain an identifying card which must contain the person’s name and signature, personal address, business name and address, if applicable, and picture. Section 2.3 requires the Department of Motor Vehicles to charge a fee of \$50 for the issuance of each card. A card expires on December 31 of the year in which it is issued but may be renewed upon application and payment of a renewal fee of \$25. The fees collected by the Department from the issuance of the cards must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Section 2.5 of this bill prohibits a person who is licensed or who is required to be licensed as an automobile wrecker, dealer of new or used motor vehicles or rebuilder from applying for or obtaining an identifying card described in section 2.3. Section 10 of this bill provides that any person who violates the provisions of section 2.3 or 2.5 is guilty of a misdemeanor. (NRS 487.510)

Section 11 of this bill increases from 60 to 180 days the period within which an insurance company or its authorized agent is required to submit an application for a salvage title or nonrepairable vehicle certificate for a salvage vehicle to the Department of Motor Vehicles. (NRS 487.800)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=982>

**Effective May 29, 2009, and January 1, 2010**

**SB394**

**Criminal  
Traffic/DMV/Motor Vehicles/DUI**

- SB394 ATV Registration
  - Requires the titling and registration of off-highway vehicles with/by DMV
  - A portion of ATV registration fees go to off-highway vehicle programs
  - Provided for the licensing of manufacturers, dealers, and lessors of off-highway vehicles



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Existing law prohibits a person from operating an off-highway vehicle on a highway in this State unless the person has obtained a certificate of operation for the off-highway vehicle and has attached the certificate of operation to the offhighway vehicle in the manner specified by the Department of Taxation. (NRS 490.080) The term “off-highway vehicle” means any motor vehicle that is designed primarily for off-highway and all-terrain use, including, without limitation, an all-terrain vehicle, an all-terrain motorcycle, a dune buggy, a snowmobile or any motor vehicle used for recreational purposes on public lands. (NRS 490.060) Existing law requires an authorized dealer of off-highway vehicles to issue a certificate of operation for the

off-highway vehicle upon the sale of the vehicle or upon request by a person who purchased the vehicle outside this State under certain circumstances. (NRS 490.070)

With limited exceptions, section 12 of this bill requires a person who acquires ownership of an off-highway vehicle on or after the effective date of that section as provided in paragraph (b) of subsection 2 of section 63 of this act to apply to the Department of Motor Vehicles for the titling and annual registration of the vehicle within 30 days after acquiring ownership of the vehicle. A person who acquired ownership of an off-highway vehicle before the effective date of section 12 as provided in paragraph (b) of subsection 2 of section 63 of this act may apply to the Department for the titling of the vehicle, but is required to apply to the Department for annual registration of the vehicle within 1 year after that date.

Section 15 of this bill creates the Fund for Off-Highway Vehicles in the State Treasury. A portion of the money received from the fees collected pursuant to section 12 of this bill must be deposited into the Fund. All money deposited into the Fund must be used only for projects relating to off-highway vehicles as set forth in section 15.

Section 16 of this bill creates the Commission on Off-Highway Vehicles. The Commission consists of 11 members who are appointed by the Governor. Each member of the Commission serves for a term of 3 years and, if money is available from the Fund for Off-Highway Vehicles, is entitled to receive the per diem allowance and travel expenses provided to state officers and employees.

Section 17 of this bill imposes various duties upon the Commission, including, without limitation, the duty to select nonvoting advisers to the Commission and to adopt regulations for awarding grants from the Fund for Off-Highway Vehicles.

Section 59 of this bill, in part, repeals the provisions of NRS 490.030, which define the term “Department” for purposes of chapter 490 of NRS to mean the Department of Taxation. Because NRS 481.015 defines the term “Department” for purposes of title 43 of NRS to mean the Department of Motor Vehicles, the effect of the repeal of NRS 490.030 and the amendment of NRS 481.015 set forth in section 1 of this bill is to place the authority to administer the provisions of chapter 490 of NRS under the Department of Motor Vehicles.

Sections 20-52 of this bill provide for the licensing of manufacturers, dealers and lessors of off-highway vehicles and for the consignment of off-highway vehicles.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1040>

**Effective May 31, 2009, June 2, 2009, and July 1, 2011**

## **Wildlife/Hunting/Fishing**

**AB194** – Existing law requires the Board of Wildlife Commissioners to establish a system of assessing demerit points for a person who is convicted of violating certain laws and regulations in this State relating to hunting, fishing and trapping. Existing law also sets forth certain laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812-501.1818) **Section 3 of this bill includes acting as a guide or subguide without a license within the group of laws for which a violation is not included in the system of assessing demerit points.** (NRS 501.1812)

Existing law requires each person who provides service as a hunting or fishing guide for compensation or who provides that service as an incidental service to customers of a commercial enterprise to have a master guide license issued by the Department of Wildlife. Existing law also requires any person who assists a master guide and acts as a guide in the course of that activity to have a subguide license issued by the Department. (NRS 504.390) Existing law provides that a person who acts as a master guide or subguide without first obtaining a license from the Department is guilty of a gross misdemeanor. (NRS 504.395) **Section 9 of this bill revises the penalty for committing such a violation by providing that the person is guilty of a gross misdemeanor for a first offense and guilty of a category E felony for a second or subsequent**



**offense.** Section 9 also requires the Board of Wildlife Commissioners to revoke any hunting, fishing or trapping license, permit or privilege issued to the person and refuse to issue any new hunting, fishing or trapping license to the person for 5 years. Sections 1 and 2 of this bill conform existing references to such a violation to account for the change in the penalty. Section 5 of this bill **prohibits a person from knowingly compensating a person who engages in activity for which a master guide license or subguide license is required unless the person engaging in that activity provides proof that he is the holder of such a license to the person providing the compensation. Section 5 makes a violation of that prohibition a misdemeanor.** Sections 7 and 8 of this bill define the word “compensation” and also revise the existing definition of “guide” for the purpose of requiring the issuance of master guide licenses and subguide licenses. (NRS 504.390)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=398>

**Effective October 1, 2009**

**AB246** – Existing law authorizes the Department of Wildlife to issue licenses to hunt and fish in Nevada. (Chapter 502 of NRS) **Section 3 of this bill provides for the issuance of an apprentice hunting license to a person who: (1) is 12 years of age or older; (2) has not previously been issued a hunting license in this State, another state or a Canadian province; and (3) except for the requirement of completing a course of instruction in the responsibilities of hunters, is otherwise qualified to obtain a hunting license.** Section 3 prohibits the Department from imposing a fee for the issuance of an apprentice hunting license but requires the applicant or mentor hunter to pay any service fees required by a license agent pursuant to NRS 502.040, the habitat conservation fee required by NRS 502.242 and any transaction fee if he conducts an online transaction with the Department. Section 3 also provides that it is unlawful for an apprentice hunter to hunt in this State unless he is accompanied and directly supervised by a mentor hunter who is 18 years of age or older and licensed to hunt in this State. A violation of this provision is a misdemeanor. (NRS 501.385) In addition, section 3 provides that the mentor hunter must: (1) ensure that the apprentice hunter safely handles and operates his firearm or weapon and complies with all applicable laws and regulations regarding hunting and the use of firearms; and (2) maintain close visual and verbal contact with, provide adequate direction to and maintain the ability readily to assume control of any firearm or weapon from the apprentice hunter.

Existing law requires a person to complete a course of instruction in the responsibilities of hunters before obtaining a hunting license in this State. (NRS 502.330) Sections 3 and 11 of this bill provide an exception from this requirement for a person who applies for an apprentice hunting license.

Under existing law, the Board of Wildlife Commissioners is authorized to provide for the issuance of big game tags for the hunting of big game mammals in this State. (Chapter 502 of NRS) Section 4 of this bill requires the Commission to establish a program for the issuance of additional big game tags each year to be known as “Dream Tags.” A tax-exempt nonprofit organization established through the Community Foundation of Western Nevada which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department as are authorized by the Commission at prices established by the Commission. The nonprofit organization must agree to award the tags by raffle through a private entity acting as its agent that is approved by the Department. All money received by the Department for Dream Tags must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less certain costs, must be used for the preservation, protection, management or restoration of wildlife and its habitat, as determined by the Advisory Board on Dream Tags which is created by section 6 of this bill.

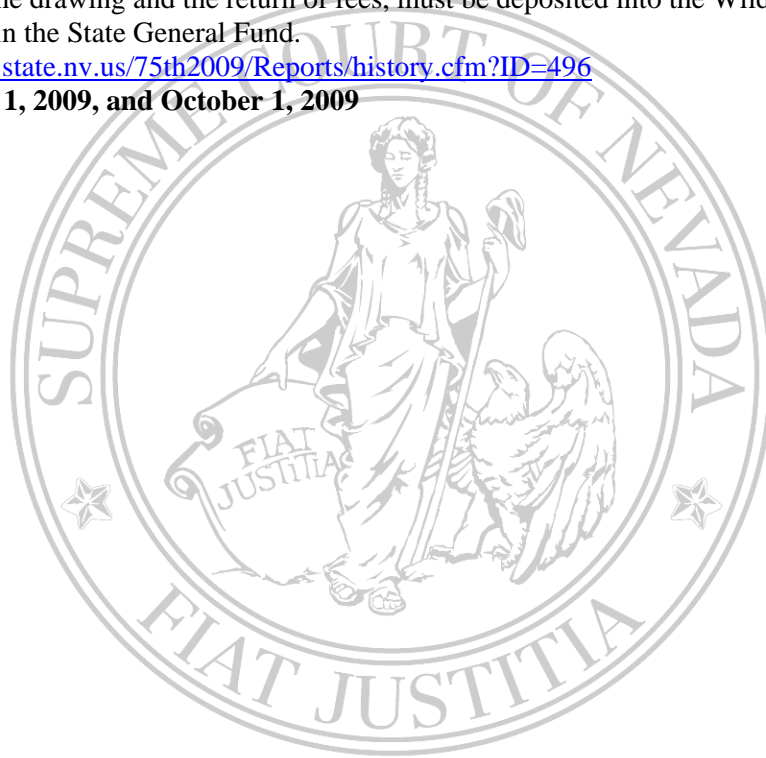
Section 5 of this bill requires that a person must purchase a resource enhancement stamp to be eligible to participate in the Dream Tag raffle.

Section 7 of this bill provides that the provisions of chapter 462 of NRS, which provides for the administration of charitable lotteries by the State Gaming Control Board and the Nevada Gaming Commission, do not apply to the distribution of any tags issued pursuant to chapter 502 of NRS, regardless of the manner in which the tags are distributed or the entity that distributes the tags.

Existing law authorizes the Board of Wildlife Commissioners to accept sealed bids for or auction not more than 15 big game tags and not more than 5 wild turkey tags each year. (NRS 502.250) Section 10 of this bill authorizes the Commission to award all or a portion of those tags through a Silver State Tag Drawing. Section 10 provides that the amount of the fee for processing an application for a Silver State Tag must not be less than \$15 or more than \$50, as determined by regulations adopted by the Commission. Section 10 also provides that any money received from the application fee for the drawing, except for a certain amount of money for the costs of administering the drawing and the return of fees, must be deposited into the Wildlife Heritage Trust Account in the State General Fund.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=496>

**Effective June 1, 2009, and October 1, 2009**



# Elections/Public Officers

## Electronic Transmission of Ballots

AB41

### Elections/Public Officers All Courts

- AB 41 Electronic Voting
  - Applies to military personnel/family and overseas citizens
  - Allows this group to request registration, ballots, and to return ballots via approved electronic transmission
  - Expands eligibility for late registration



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**Related Federal Law:** Uniformed and Overseas Citizens Absentee Voting Act, *42 U.S.C. Sections 1973ff et seq.*

Section 6 of this bill authorizes the Secretary of State to adopt regulations concerning standards for the approved electronic transmission of certain applications, forms and ballots. (NRS 293.247)

Section 8 of this bill expands the acceptable use of the form provided by the Federal Government from a special absent ballot to be used only in general elections and only for federal offices to allow its use in primary and special elections, in addition to general elections, and for state and local offices in addition to federal offices. (NRS 293.3155)

Section 15 of this bill provides that an elector of this State who resides outside the United States may use the special absent ballot as a simultaneous application for registration and ballot to vote. (NRS 293.501)

Sections 8, 9, 11, 12, 15, 16, 18 and 20-22 of this bill allow certain members of the Armed Forces and their spouses and dependents, and certain other electors of this State who reside outside the United States: (1) to request forms for registration, absent ballots, special absent ballots and the form provided by the Federal Government for simultaneous registration and request of an absent ballot; and (2) to return voted ballots by approved electronic transmission. (NRS 293.3155, 293.3157, 293.320, 293.323, 293.501, 293.502, 293.553, 293C.315, 293C.320, 293C.322)

Section 16 of this bill expands the eligibility for late registration by those who have recently returned to residency in the United States to include: (1) the spouses and dependents of members of the Armed Forces stationed outside the United States who have been recently discharged; and (2) persons recently separated from employment outside of the United States and the spouses and dependents of such persons. (NRS 293.502)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=104>

**Effective July 1, 2009**

**Amends: NRS 293 (numerous sections) and NRS 293C (numerous sections)**

# Judicial Discipline

AB496

## Elections/Public Officers All Courts

- AB 496 Judicial Discipline Reforms
  - 3-year statute of limitations for complaint
  - 18 months for Commission to resolve or file
  - 60 days to hearing/60 days for FFCL by Commission
  - Commission must file annual/biennial reports re time to disposition



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**Notes:** The Commission on Judicial Discipline (Commission) has authority to discipline judges pursuant to NRS 1.425 through 1.4695. This bill provides that a complainant/witness in case against a judge is no longer subject to contempt action for breach of confidentiality. The bill includes new definitions of terms and forms of discipline, including public admonishment and public reprimand. This reform was the subject of study and adoption of written recommendations by the Article 6 Commission created in 2006. **Related Cases: In the Matter of the Honorable Elizabeth Halverson**, Case No. 0801-1066, entered November 17, 2008 by the Nevada Commission on Judicial Discipline.

Existing law defines certain terms used in certain provisions of chapter 1 of NRS which relate to the Commission on Judicial Discipline. (NRS 1.425-1.429) Sections 1.5-9, 16 and 17 of this bill revise certain definitions and define additional terms that are used in those provisions. Section 13 of this bill requires the Commission to prepare annual and biennial reports concerning, among other things, the period for disposition of complaints filed with the Commission.

Sections 21, 22, 26 and 27 of this bill authorize the Commission to dismiss a complaint with a letter of caution under certain circumstances. (NRS 1.4655, 1.4657, 1.4667, 1.467) Section 21 of this bill provides, with exceptions, a 3-year statute of limitations for filing a complaint with the Commission concerning alleged misconduct or incapacity of a judge. Section 21 also requires the Commission, within 18 months after the receipt of such a complaint, to either resolve the complaint or authorize the filing of a formal statement of charges relating to the complaint. (NRS 1.4655) Section 27 of this bill requires a judge to file an answer to a formal statement of charges against the judge with the Commission within 20 days after the judge is served with the formal statement of charges. (NRS 1.467)

Section 28 of this bill generally requires a hearing on a formal statement of charges to be held. Further, section 28 requires, if practicable, the hearing to be held not later than 60 days after a judge files the answer with the Commission. (NRS 1.4673) Section 28 also requires the Commission to prepare findings of fact and conclusions of law setting forth the decision of the Commission within 60 days after the conclusion of the hearing on the formal statement of charges. (NRS 1.4673)

Section 29 of this bill requires the Commission to give a judge 7 days' notice and an opportunity to respond and to hold a public hearing before the Commission suspends the judge from office. (NRS 1.4675) Section 30 of this bill adds public admonishment and public reprimand to the existing forms of discipline the Commission is authorized to use for a judge who is the subject of a complaint. (NRS 1.4677)

Section 32 of this bill authorizes a person who files a complaint against a judge with the Commission, the judge who is the subject of the complaint or a witness to disclose information concerning the complaint and any investigation or proceedings concerning the complaint. Section 32 also authorizes the Commission to issue an explanatory statement, under certain circumstances, concerning a complaint filed with the Commission under certain circumstances in which the complaint is made public. (NRS 1.4683)

Section 33 of this bill revises provisions governing the documents and exhibits concerning a complaint which must be made accessible to the public.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=957>

**Effective January 1, 2010**

**Amends: NRS 1.425-1.4695 (numerous sections)**

# Municipal Elections

## AB39

### Elections/Public Officers Municipal Elections

- AB39 North Las Vegas Elections
  - Requires the city to hold a primary election before the general election regardless of the number of candidates running for the office
  - Judicial offices included



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The existing Charter of the City of North Las Vegas requires that a primary municipal election be held before a general election only if there are three or more candidates seeking the office of Mayor or Municipal Judge or a particular City Council seat. (North Las Vegas City Charter § 5.020) This bill makes the holding of a primary municipal election by the City preceding every general election mandatory, regardless of the number of candidates seeking a particular elective office. The Charters of the Cities of Henderson and Las Vegas currently contain the same requirement. (Henderson City Charter § 5.010; Las Vegas City Charter § 5.010)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=102>

**Effective July 1, 2009**

**Amends: North Las Vegas City Charter**

## AB79

### Elections/Public Officers Municipal Elections

- AB79 Municipal Elections
  - Allows vote by mail election if it is a special election, effects only one ward of the city, or is on a single candidate or ballot question
  - If a candidate in city with a population of 5,000 or more receives a majority of the votes in a primary election, they are declared the winner (no general election)
  - With certain limited exceptions, any registered voter providing sufficient written notice may vote an absent ballot
  - Requires election results to be posted on city website w/in a day of the election



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Section 1 of this bill authorizes the governing body of a city to conduct a city election in which all ballots must be cast by mail if: (1) the election is a special election; (2) the election involves only offices and ballot questions that may be voted on by the voters of only one ward of the city; or (3) the election involves only a single office or ballot question. The provisions of existing law governing the conduct of city elections apply to such an election except for provisions concerning voting in person at polling places, voting by absent ballot and early voting in person. For the purpose of conducting such an election, each voting precinct in the city is treated as if it were a mailing precinct under existing law.

Under existing law, if a candidate for office in a city primary election held in a city whose population is 5,000 or more receives a majority of the votes cast for the office, only his name must be placed on the ballot for the city general election, and he must run unopposed in that



election. (NRS 293C.175) Section 3 of this bill provides instead that such a candidate must be declared elected to the office based on the majority vote in the primary election and that his name must not be placed on the ballot for the city general election.

Section 4 of this bill eliminates a provision which enables a registered voter who is at least 65 years of age or who has a physical disability or condition that substantially impairs his ability to go to the polling place to request an absent ballot for all elections held during the year he requests an absent ballot, thus making it so that, with certain limited exceptions, any registered voter providing sufficient written notice may vote an absent ballot. (NRS 293C.310)

Existing law requires a counting board and a city clerk to post a signed copy of the voting results in a city election on the outside of the facility where the votes were counted, the courthouse or the city hall. (NRS 293C.380) Section 5 of this bill requires that the results also be posted on an Internet website not later than the start of business on the day immediately following the election, if the city or the city clerk maintains such a website. Section 5 also eliminates the requirement that the copy of the voting results be signed before it may be posted.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=178>

**Effective May 22, 2009**

**Amends: NRS Chpt. 239C, NRS 293C.110, NRS 293C.310, NRS 293C.380, NRS 293C.387, NRS 293C.390**

## Primary Date

### SB162

#### Elections/Public Officers

##### All Courts

- SB 162 Primary Election Date Change
  - The primary election dated moved from the 12<sup>th</sup> Tuesday before the general election (mid-August) to the second Tuesday in June of each even numbered year
  - Voter registration now effective the earlier of postmark or date of clerk's receipt



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**Notes:** As a result of the change in the primary election date, other dates have been changed, including the date(s) for filing declaration of candidacy (moved up two months). Calendars and election information, including judicial elections, may be found at the Secretary of State's website located at:  
<http://www.sos.state.nv.us/elections/nvelection/>

Section 6 of this bill changes the date of the primary election from the twelfth Tuesday before the general election of each even-numbered year to the second Tuesday in June of each even-numbered year. (NRS 293.175) To provide an example, if the provisions of this bill had been in effect in 2008, the primary election would have been held on June 10, 2008, instead of August 12, 2008. As a result of changing the date of the primary election, sections 1-5, 7-12 and 14-17 of this bill amend various other dates relating to elections such as the date for filing declarations of candidacy.

Section 16 of this bill changes the date on which a voter's registration or correction of registration information is deemed to be effective to the earlier of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=447>

**Effective October 1, 2009**

**Amends: NRS 293 (numerous sections) and NRS 293B.354**

# Family/Children/Divorce

## Child Care Facilities

**AB89** – Existing law provides for the licensure of certain child care facilities. (NRS 432A.131-432A.220) As part of the process for obtaining a license, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services conducts a background check of each applicant for a license, licensee, employee of an applicant or licensee and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older. (NRS 432A.170, 432A.175) **Section 5 of this bill expands the list of crimes that the Bureau must inquire about as part of such an investigation and requires the Bureau to request information concerning every applicant, licensee, employee, resident or participant from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child to determine whether there has been a substantiated report of child abuse or neglect made against any of those persons.** (NRS 432A.170) Section 6 of this bill requires the Bureau to obtain permission from each such applicant, licensee, employee, resident or participant to obtain such information from the Statewide Central Registry. (NRS 432A.175) If an employee of an applicant or licensee, or a resident or participant, has been convicted of one of the crimes inquired about as part of the investigation, the Bureau is required to notify the applicant or licensee. Upon receiving such notice, section 2 of this bill requires the applicant or licensee to terminate the employment of the employee, remove the resident from the child care facility or remove the participant from the outdoor youth program, as applicable, after affording the person an opportunity to correct the information. Section 6 further requires an applicant or licensee to notify the Bureau when the applicant, licensee, employee, resident or participant is involved in certain legal proceedings or disciplinary hearings or charged with certain crimes. (NRS 432A.175)

Section 4 of this bill prohibits the Bureau from issuing a provisional license to operate a child care facility unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees to ensure that they have not been convicted of certain crimes or had a substantiated report of child abuse or neglect made against them. (NRS 432A.160)

Section 7 of this bill expands the grounds for denial of an application for a license to operate a child care facility and for taking disciplinary action against a licensee and authorizes the Bureau to impose administrative fines for a violation of the statutes governing licensure of child care facilities or the regulations adopted pursuant thereto. (NRS 432A.190)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=188>

**Effective October 1, 2009**

**AB103** – Existing law enacted in the 2007 Legislative Session appropriated \$250,000 for the Legislative Auditor to employ or contract with an auditor to serve as the Child Welfare Specialist during the 2007-2009 biennium. (Section 6 of chapter 348, Statutes of Nevada 2007, p. 1659) The law set out the duties of the Child Welfare Specialist, which included conducting such performance audits of governmental facilities for children as assigned by the Legislative Auditor and inspecting, reviewing and surveying other governmental and private facilities for children to determine whether such facilities adequately protect the health, safety and welfare of the children in the facilities and whether the facilities respect the civil and other rights of the children in their care.

**This bill effectively transfers the duties of the Child Welfare Specialist to the Legislative Auditor and codifies those duties in NRS as continuing duties of the Legislative Auditor.** Section 6 of this bill requires the Legislative Auditor, as directed by the Legislative

Commission, to conduct performance audits of governmental facilities for children. Sections 7 and 8 of this bill require the Legislative Auditor or his designee to inspect, review and survey governmental facilities for children and private facilities for children to determine whether such facilities adequately protect the health, safety and welfare of the children in the facilities and whether the facilities respect the civil and other rights of the children in their care. Section 9 of this bill requires each governmental facility for children and private facility for children to cooperate fully with the Legislative Auditor or his designee in the performance of his duties, allow the Legislative Auditor or his designee to enter the facility and any area within the facility with or without prior notice, interview children and staff at the facility and inspect, review and copy any records, reports and other documents relevant to his duties. Section 9 also requires such a facility to forward to the Legislative Auditor or his designee copies of any complaint that is filed by a child under the care or custody of the facility or by any other person on behalf of such a child concerning the health, safety, welfare, and civil and other rights of the child.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=218>  
**Effective July 1, 2009**


## Child Custody/Adoption/ Child Placement

### AB59

**Family  
District Court**

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- AB 59 Presumption Against Custody Award
  - Rebuttable presumption against custody/unsupervised visitation for person who commits an act of abduction against a child
  - Requires evidentiary hearing and finding by clear and convincing evidence
  - Requires written findings of fact



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**Notes:** The new presumption is similar to the presumption created in cases involving domestic violence, but adds a limitation on unsupervised visitation as well. Abduction is defined as “the commission of an act described in NRS 200.310 to 200.340, inclusive (kidnapping), or NRS 200.359 (noncustodial parent willfully removes child from custodial parent) or a law of any other jurisdiction that prohibits the same or similar conduct.” Both presumptions support the “best interests of the child” standard.

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Existing law provides that an award of child custody or visitation may only be made by considering the best interest of the child. (NRS 125.480, 125C.010) Further, existing law creates a rebuttable presumption that sole or joint custody of a child by a perpetrator of domestic violence is not in the best interest of the child. (NRS 125.480, 125C.230, 432B.157)

Section 1 of this bill, for cases involving divorce or other dissolution of marriage: (1) creates a similar rebuttable presumption against awarding sole or joint custody or unsupervised visitation to a perpetrator of an act of abduction against his child or any other child; (2) defines the term “abduction”; (3) provides certain acts that constitute conclusive evidence of an act of abduction; and (4) requires a court to follow certain procedures concerning how to determine custody when, after a final order of custody has been entered, a magistrate determines probable cause exists that a party to the custody proceeding has committed an act of abduction against the child or any other child.

Sections 2 and 3 of this bill incorporate the same presumption and provisions into chapter 125C of NRS concerning custody and visitation and chapter 432B of NRS concerning protection of children from abuse and neglect.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=135>

**Effective May 11, 2009**

**Amends: NRS 125.480; NRS 125C; NRS 432B**

**AB76 – Existing law requires the licensing authority for foster homes to obtain fingerprints from applicants for a license** to conduct a foster home, prospective employees of the applicant or of a licensee and from any resident of the foster home who is 18 years of age or older for the purpose of conducting a criminal background check. (NRS 424.033) Existing law similarly requires such a background check of any adult resident of a home in which an agency which provides child welfare services wishes to place a child in an emergency situation. (NRS 432B.391) In addition, the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, amended title IV of the Social Security Act to require fingerprint-based checks of the national crime information databases and to require checks of any state registry of child abuse and neglect before placing a child in a prospective foster home or with adoptive parents. **To comply with this federal Act, section 1 of this bill requires the licensing authority for foster homes to obtain permission from each applicant for a license to conduct a foster home, each prospective employee of the applicant or of a licensee and any resident of the foster home who is 18 years of age or older to conduct a child abuse and neglect screening in every state in which the person has resided during the last 5 years and then to conduct such a screening. In addition, section 1 requires the Division of Child and Family Services of the Department of Health and Human Services to assist the licensing authorities of other states in conducting a child abuse and neglect screening of a person who has resided in this State if the person has signed a written permission authorizing the screening and authorizes the Division to charge a fee for providing such information in an amount not to exceed the actual cost to the Division to provide the information.**

Existing law requires each foster home to be licensed. (NRS 424.030) “Foster home” includes a family home in which one to six children under the age of 18 are cared for by a person who is not related within the first degree of consanguinity or affinity with or without compensation. (NRS 424.013, 424.014)

Section 2 of this bill expands the exemptions from the provisions governing licensure of foster homes so that those provisions do not apply to a person who provides care to a minor child who is in the custody of an agency which provides child welfare services if the caregiver is related to the child within the fifth degree of consanguinity and the caregiver has not applied for a license. (NRS 424.090)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=175>

**Effective October 1, 2009**



**AB500**

**Family  
District Court**

- AB 500 Adoption
  - For specific adoptions, legal custody is established at time consent is executed and continues until further court order
  - Advertisement for child placement services must include information indicating license is current and number



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**Notes:** NRS 127.053 provides requisites for a specific adoption in Nevada. NRS 127.310 requires child placement service providers to be licensed by the Division of Child and Family Services (DCFS). Violation of this requirement is a misdemeanor.

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Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) Section 2 of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

Section 11 of this bill requires a child-placing agency licensed by the Division of Child and Family Services of the Department of Health and Human Services to include certain information confirming its licensure in any advertisement concerning its services. (NRS 127.310)

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=962>

**Effective October 1, 2009**

**Amends: NRS 127**

**SB342**

**Family  
District Court**

- SB 342 Custody Preference for Relatives Expanded
  - Applies to placement of a child with relatives of parent
  - Preference expanded to 5<sup>th</sup> degree of consanguinity



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**Notes:** This bill applies primarily to courts and agencies which provide child welfare services, and expands preference from third degree of consanguinity to fifth degree of consanguinity. The change applies to the placement of a child in the following cases: child protection, juvenile, divorce/custody, and termination of parental rights.

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Existing law requires courts, agencies which provide child welfare services and others to give preference to relatives within the third degree of consanguinity when placing a child in the custody of a person other than the parent. (NRS 62C.010, 62E.120, 62E.170, 125.480, 432B.390, 432B.480, 432B.550) Sections 1-7 of this bill expand the relatives who receive such preference to include relatives within the fifth degree of consanguinity. Section 8 of this bill similarly



authorizes such preference when placing a child whose parents have had their parental rights terminated. (NRS 128.110)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=947>

**Effective July 1, 2009**

**Amends: NRS 432B (protection of children), NRS 62C; NRS 62E (juveniles), NRS 125 (custody), NRS 128 (termination of parental rights)**


## Child Support

### AB101

**Family  
District Court**

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- AB 101 Program for Enforcement of Child Support (federal law)
  - Counties may participate at their cost
  - Revises requirements for DC review of masters' recommendations
  - Hearings OK via phone/electronic means
  - Establishes employers responsibility to deliver money



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**Notes:** Participating counties may also withdraw from the Program with notice.

Upon review of master recommendation, the district court may, in extraordinary circumstances, grant a trial de novo. Division administrator to recognize and take action on liens in response to information received from other states.

**Related Federal Law:** Program for the Enforcement of Child Support, Part D of the Title IV of the Social Security Act, *42 U.S.C. Section 651 et. seq.*

Section 1 of this bill authorizes each county in this State to participate in the Program for the Enforcement of Child Support created under federal law. If a county participates in the Program, the county must pay for the cost of the Program in that county. Section 1 also authorizes a county that participates in the Program to withdraw from the Program after providing a notice of withdrawal to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

Section 3 of this bill specifies that the Administrator of the Division or his designee is responsible for and is required to supervise the Program. (NRS 425.365)

Sections 5, 7, 10, 14 and 15 of this bill specify that the approval by a district court of a recommendation made by a master concerning the support of a dependent child must be made in accordance with certain procedural requirements. (NRS 425.382, 425.383, 425.3836, 425.540)

Sections 6, 11, 12, 19 and 21 of this bill delete provisions of existing law that require a master, after making a recommendation for the support of a dependent child, or a district court to ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is paid are placed in the records relating to the matter and remain confidential. (NRS 425.3828, 425.3844, 425.3855, 125.230, 125B.055)

Section 8 of this bill authorizes a master who conducts a hearing relating to the support of a dependent child to conduct the hearing by telephone or by any audiovisual or other electronic means outside the judicial district in which the master is appointed. (NRS 425.3832)

Section 9 of this bill provides that if a district court reviews a recommendation of a master concerning the support of a dependent child, the review must be conducted on the record

of the case before the master unless the district court, in extraordinary circumstances as determined by the district court, grants a trial de novo. (NRS 425.3834)

Under existing law, a master who makes a recommendation concerning the support of a dependent child must furnish the recommendation to each party in the case before the master. Each party may then file an objection to the recommendation within 10 days after receiving the recommendation. If a notice of objection is not filed, the district court must accept the recommendation and may enter judgment thereon. Section 11 of this bill provides that if a notice of objection is not filed, the recommendation of the master shall be deemed approved by the district court and the clerk of the court may file the recommendation. (NRS 425.3844)

Section 13 of this bill provides that a financial institution which is doing business in Nevada and which receives notification of a lien against a responsible parent from an agency for the enforcement of child support located in another state is required to encumber all assets held by the financial institution on behalf of the responsible parent and surrender those assets upon the enforcement of the lien. Section 13 also provides immunity from liability for the agency located in another state for disclosing information and providing assets to certain other persons. (NRS 425.460)

Sections 16 and 17 of this bill set forth penalties that may be imposed against an employer who refuses or intentionally fails to deliver to the appropriate enforcing authority any money that the employer is required to withhold from an employee's wages for child support owed by the employee. The penalties include, without limitation, the payment of punitive damages to the person to whom the child support is owed. (NRS 31A.095, 31A.120)

Section 18 of this bill deletes provisions of existing law that require a court that grants a decree of divorce to ensure that the social security numbers of both parties to the decree are provided to the Division. (NRS 125.130)

Section 22 of this bill revises provisions governing the amounts paid by a parent for medical support for a child pursuant to a court order requiring the payment of that support. (NRS 125B.085)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=216>

**Effective: October 1, 2009 (Sections 1-14, 24, Sections 16-23), Date of repeal of federal law (Section 15 effective, Section 14 expires)**

**Amends: NRS 425 (numerous sections); NRS 125, 125B; NRS 31**

**Repeals: NRS 425 provisions requiring courts to maintain confidentiality of social security numbers of parents and legal guardians in support actions.**

**AB280**

**Family  
District Court**

- AB 280 Uniform Interstate Family Support Act Amendments
  - Now applies to foreign support orders/tribunals, obligees, obligors and children residing in a foreign country
  - Provides powers, duties and procedures for support orders under the International Recovery of Child Support treaty



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**Notes:** Nevada enacted UIFSA in 1997 as required to obtain federal funding for enforcement of child/spousal support obligations. The Act establishes the procedures and jurisdictional requirements regarding issuance, enforcement and modification of interstate child support and spousal support orders.

AB 280 defines foreign country as “a country, including a political subdivision thereof, other than the United States, which authorizes the issuance of support orders and: 1. Which has been

*declared under the law of the United States to be a foreign reciprocating country; 2. Which has established a reciprocal arrangement for child support with this State as provided in NRS 130.308; 3. Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or 3. In which the Convention is in force with respect to the United States.”*

Nevada enacted the Uniform Interstate Family Support Act in 1997. (NRS 130.0902-130.802; Chapter 489, Statutes of Nevada 1997, p. 2311) The Act establishes the procedures and jurisdictional requirements regarding the issuance, enforcement and modification of interstate child-support and spousal-support orders. Because the United States Congress has made the enactment of the Act a condition for states to receive federal funding for child support enforcement efforts, every jurisdiction in the United States has enacted the Act. This bill enacts the amendments to the Act that were proposed and finalized by the National Conference of Commissioners on Uniform State Laws in 2008.

This bill amends existing law to provide that the provisions of the Act apply to a foreign support order, a foreign tribunal, or obligees, obligors or children residing in a foreign country. This bill also provides for various powers, duties and procedures for support orders under the International Recovery of Child Support and Other Forms of Family Maintenance treaty, which include: (1) specific filings an obligee or an obligor may make under the treaty; (2) the ability to file a direct request for determination or modification of certain orders; and (3) the registration, recognition and enforcement of certain foreign orders in this State.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=560>

**Effective on the date that the provisions of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance is ratified by the President and the United States deposits its instrument of ratification.**

**Amends: NRS 126 (numerous sections) and NRS 130**


# Domestic Partnership

## SB283

**Family**  
District Court

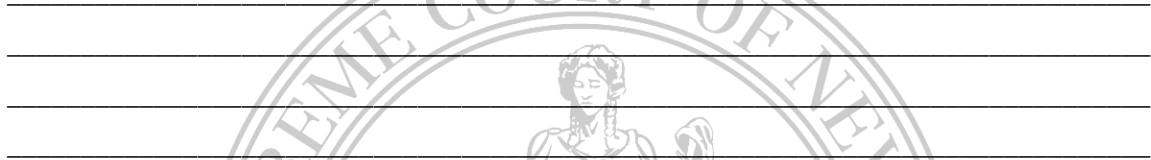
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- SB 283 Nevada Domestic Partnership Act
  - New type of civil contract
  - Domestic partners gain most rights, protections, benefits granted to spouses
  - DP not marriage under Art. 1, Section 21
  - Employer may, but is not required to provide health care benefits for partner



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**Notes:** Parties are required to file signed statement with Secretary of State and pay a filing fee of \$50.00. Domestic partners are protected from discriminatory treatment, and may assert community property rights, and seek debt division, financial support/child support from the other partner. A surviving domestic partner also has same rights as widow/widower. Section 9 provides provisions for termination of partnership. Legal unions formed in other states that are substantially equivalent to Nevada’s DP Act must be recognized.



This bill establishes a domestic partnership as a new type of civil contract recognized in the State of Nevada. Under the provisions of this bill, with certain exceptions, domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to title 11 of NRS. This bill also clarifies that a domestic partnership is not a marriage for the purposes of Section 21 of Article 1 of the Nevada Constitution.

Section 8 of this bill sets forth that no public or private employer in this State is required to provide health care benefits to or for the domestic partner of an officer or employee. Section 8 also clarifies that any public or private employer in this State may voluntarily provide health care benefits to or for the domestic partner of an officer or employee upon such terms and conditions as the affected parties may deem appropriate.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=764>

**Effective October 1, 2009**

**Amends: NRS Chpt. 11**

## Foster Care

**AB227 – Sections 4-7 of this bill provide for licensing of persons who operate a foster care agency that assists an agency which provides child welfare services in placing or arranging for the placement of children in foster care.** Section 4 requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations regarding the placement of children in foster care, including, without limitation, regulations establishing the minimum standards for foster care agencies and regarding the issuance and renewal of a license to operate a foster care agency. Section 5 authorizes a licensing authority, which is an agency which provides child welfare services, to license foster care agencies within its jurisdiction in accordance with the regulations adopted by the Division. If a licensing authority licenses foster care agencies, then all foster care agencies within the jurisdiction of the licensing authority will be required to obtain a license. Section 5 further authorizes a licensing authority to impose a fee for the licensing and renewal of a license to operate a foster care agency up to a specific amount

that must not exceed the actual cost incurred by the authority for providing or renewing the license. Section 6 provides that a license to operate a foster care agency is valid for 2 years.

Section 7.5 of this bill authorizes an agency which provides child welfare services to determine the services that a foster care agency may provide on behalf of the agency which provides child welfare services.

Section 18 of this bill requires the Division to adopt the necessary regulations on or before July 1, 2010.

Existing law requires persons who operate a family foster home or group foster home to obtain a license from the appropriate licensing authority. (Chapter 424 of NRS) The Division of Child and Family Services has adopted regulations for family and group foster homes pursuant to this chapter and has also adopted similar standards for treatment homes, which are a specialized type of foster home. (NAC 424.075, 424.650-424.705)

Section 3 of this bill defines what constitutes a “specialized foster home” and sections 8-14 of this bill set forth in statute the requirement that persons who operate a specialized foster home obtain a license from the appropriate licensing authority. (NRS 424.010, 424.014, 424.020, 424.030, 424.0365, 424.040, 424.085)

Section 19 of this bill makes the licensing provisions included in this bill effective on January 1, 2011, so that a license to operate a foster care agency and a license to operate a specialized foster home may not be required before that date.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=461>

**Effective May 29, 2009 and January 1, 2011**

## Guardianship

AB320

### Family District Court

- AB 320 Guardianship Action Requirements
  - Assessment of ward by physician
  - Right to counsel advice to ward
  - Attendance by ward via videoconference OK
  - Report to court/court’s consent required if ward is moved to “secured residential long term-care facility”



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**Notes:** Revisions to existing law require the guardian to keep the court more informed and advised as to the status of the ward. Consent to move the ward to a secured residential long term care facility is not required if consent previously granted or if a physician/social worker/employee of county protective services recommends the transfer in writing. Section 8 provides correction to attorney/PR compensation provisions. Secured residential long-term care facility is defined as “*a residential facility providing long-term care that is designed to restrict a resident of the facility from leaving the facility, a part of the facility or*

*the grounds of the facility through the use of locks or other mechanical means unless the resident is accompanied by a staff member of the facility . . .*”

**Related Legislation:** SB 277 (See Section 8 for technical corrections made to SB 277 re compensation for attorney/PR.)

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Section 3 of this bill requires that a petitioner for the appointment of a guardian for a proposed adult ward provide the court with an assessment completed by a licensed physician of the proposed adult ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section 4 of this bill provides that a proposed adult ward must be advised of his right to counsel in the guardianship proceeding and requires that certain information or responses provided by the adult ward relating to his right to counsel and to the proceeding be transmitted to the court. (NRS 159.0485) Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed indicating the reasons the proposed ward cannot appear. (NRS 159.0535)

Section 5 of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. Section 5 further provides that if a proposed ward is an adult and cannot attend the hearing or appear by videoconference, the court must have the person who signs the certificate to excuse the proposed adult ward from attending the hearing meet with the proposed adult ward and report back to the court regarding the proposed adult ward's desire for representation at the hearing, preferences if a guardianship is imposed and any information the person believes may have limited any of the proposed adult ward's responses.

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) Section 6 of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a secured residential long-term care facility; and (2) authorizes the court to determine the form and contents of such a report.

Section 7 of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a secured residential long-term care facility. However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing. (NRS 159.113)

Section 8 of this bill makes a technical correction to section 27 of Senate Bill No. 277 of this session, which establishes the allowable compensation of an attorney of a personal representative. (NRS 150.060)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=635>


**Effective June 4, 2009 and October 1, 2009**

**Amends: NRS 159 and NRS 150**

**Family  
Guardianship**

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- SB287 Guardianships and Trusts
  - Allows court to appoint a guardian with a felony conviction if the court so deems
  - Makes changes to trusts regarding administration, powers of a trustee, execution/garnishment, and advisors



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Section 1 of this bill revises existing law to allow a court to appoint a person convicted of a felony as a guardian if the court determines such conviction should not disqualify that person. (NRS 159.059)

Section 2 of this bill revises existing law to allow any interested person to petition a court for an order authorizing a guardian to take certain actions. (NRS 159.078)

Sections 4-37 of this bill adopt provisions relating to trusts. (Chapter 163 of NRS) Sections 13-19 provide for the classification of certain trusts. Section 13 provides that: (1) a creditor may not exercise and a court may not order a beneficiary or a trustee to exercise certain powers or discretion; (2) trust property is not subject to the personal obligations of the trustee; and (3) a settlor may provide in a trust instrument for limitations on a beneficiary’s power to transfer his interests. Section 15 sets forth the factors for determining when a settlor or beneficiary may be exercising undue influence over a trust. Section 16 provides factors for determining when a settlor is the alter ego of a trustee. Section 17 provides the classifications of a distribution interest and how such interests are divided in a trust. Section 18 provides that a beneficiary has an enforceable right to distribution of a support interest. Section 19 describes the discretion a trustee may exercise with regard to the distribution of certain interests.

Sections 20-37 of this bill adopt provisions concerning directed trusts. Section 30 limits the liability of certain fiduciaries. Section 32 provides when an adviser to a trust is also considered a fiduciary. Section 33 prescribes the powers and duties of a protector of a trust. Section 34 requires certain persons who help facilitate a trust to submit to the jurisdiction of this State. Section 35 sets forth the powers and discretion that certain persons who assist in facilitating the administration of a trust may execute. Section 36 limits the claims a creditor can bring against a settlor or beneficiary. Section 37 provides for the transfer of trust assets to another trust under certain circumstances.

Sections 38-42 of this bill amend existing law regarding trusts to provide greater ability of a settlor or beneficiary to modify or terminate a trust and to account for changes in a trust related to federal or state taxes. (NRS 163.030, 163.050, 163.185, 163.260)

Sections 44-50 of this bill adopt provisions governing the administration of trusts. (Chapter 164 of NRS) Section 44 provides a process to contest an irrevocable trust. Section 45 provides that certain persons, if not already represented, may be represented by certain other persons with similar interests in proceedings concerning the administration of a trust. Section 46 grants a trustee the power to convert a trust into a unitrust. Sections 47-49 provide for the administration of a unitrust. Section 50 provides for the distribution of community property in a nontestamentary trust established by married settlors.

Section 51 of this bill amends existing procedures for proceedings against a nontestamentary trust. (NRS 164.015)

Sections 58-60 of this bill amend existing law concerning the powers and responsibilities of a settlor or trustee for a spendthrift trust. (NRS 166.040, 166.120, 166.170)

Sections 61, 63 and 64 of this bill provide for the exemption of certain trust property, interests or powers from execution or attachment. (NRS 21.075, 21.090, 31.045)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=773>

**Effective October 1, 2009**

**Amends: NRS 159.059, NRS 159.078, NRS Chpt. 163, NRS 163.002, NRS 163.030, NRS 163.050, NRS 163.260, NRS Chpt. 164, NRS 164.015, NRS 164.720, NRS 164.725, NRS 164.730, NRS 164.900, NRS 165.160, NRS 166.040, NRS 166.120, NRS 166.170, NRS 21.075, NRS 21.080, NRS 31.045**

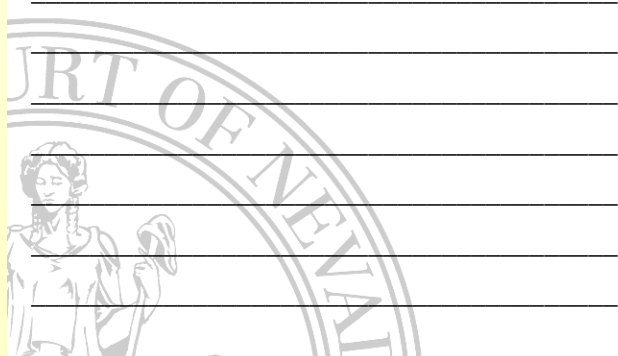
### SB313

**Family  
Guardianship**

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- SB313 Guardianship
  - Adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act
  - Allows courts to sanction vexatious litigants who file motions, other than the ward, that are without merit in order to annoy or harass a guardian
  - Requires guardians to maintain records for 7 years
  - Makes various changes to financial administration, jurisdiction, and healthcare in guardianships
  - Exempts certain guardians, with more than 3 wards, from jury service

Slide 2                      AOC Legislative Overview 2009



Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) This bill: (1) amends various provisions relating to a guardianship; and (2) adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act promulgated by the Uniform Law Commission. Section 4 of this bill provides that a court may determine that a petitioner is a vexatious litigant if the petitioner files a petition that is without merit more than once, and may impose sanctions against the petitioner.

Section 5 of this bill requires a guardian to keep records related to the guardianship, including financial records, for a period of 7 years. Section 6 of this bill provides that if a ward resides with a care provider which is an institution or facility, the care provider shall furnish itemized accountings of all financial activity pertaining to the ward on a quarterly basis and as requested by the guardian.

Sections 7-20 of this bill adopt in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which was promulgated by the Uniform Law Commission in 2007. According to the Uniform Law Commission, because of increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing, and even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over anew in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The Uniform Act is intended to address those problems concerning jurisdictional issues. The Uniform Act contains five articles, which are incorporated into sections 7-20 and which address the following topics: (1) Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states; (2) Article 2 specifies which court has jurisdiction to appoint a guardian, with the objective being to locate jurisdiction in one, and only one, state except in cases of emergency or in situations where an individual owns property located in multiple states; (3) Article 3 specifies a procedure for transferring proceedings from one state

to another; (4) Article 4 addresses enforcement of orders in other states; and (5) Article 5 contains boilerplate provisions common to all uniform acts. However, sections 7-20 do not contain, or revise, certain provisions of the Uniform Act.

Sections 25 and 42 of this bill revise the provisions relating to the persons who must receive notice of a guardianship petition. (NRS 159.034, 159.115) Section 29 of this bill revises the information contained in a notice for petition for guardianship to include certain findings about the ward's competence. (NRS 159.044) Sections 26-28 and 30 of this bill amend certain provisions concerning venue and jurisdiction for guardianship proceedings. (NRS 159.037, 159.039, 159.041, 159.0487)

Sections 32-34 of this bill revise the requirements concerning the supporting documentation necessary for certain petitions. (NRS 159.052, 159.0523, 159.0525) Sections 37-41 and 43 of this bill revise the authority of a guardian to manage the estate and affairs of a ward. (NRS 159.0755, 159.076, 159.079, 159.0895, 159.113, 159.117) Sections 44-52 of this bill revise certain provisions concerning the sale of property of a ward. (NRS 159.123, 159.134, 159.1425, 159.1435, 159.144, 159.1455, 159.1535, 159.154)

Section 55 of this bill exempts certain guardianship property from a presumption of abandonment for the purposes of the statutory provisions relating to unclaimed property. (NRS 120A.500) Section 57 of this bill revises the provisions relating to possession of the assets held by a guardian of a decedent. (NRS 143.030) Section 58 of this bill revises the provisions governing responsibility for the repayment of certain expenses of a ward paid for by a county. (NRS 428.070)

Sections 61-64 of this bill revise provisions concerning the release of a ward who was involuntarily committed to provide that: (1) the facility must notify the guardian before the ward is released; (2) the guardian has discretion to determine where to release the ward; and (3) if the guardian does not determine where to release the ward within a certain period, the facility will release the ward according to its own plan. (NRS 433A.220, 433A.380-433A.400)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=879>

**Effective October 1, 2009**

**Amends: NRS Chpt. 159, NRS 159.013, NRS 159.017, NRS 159.024, NRS 159.025, NRS 159.034, NRS 159.037, NRS 159.039, NRS 159.041, NRS 159.044, NRS 159.0487, NRS 159.049, NRS 159.052, NRS 159.0523, NRS 159.0525, NRS 159.059, NRS 159.0755, NRS 159.076, NRS 159.079, NRS 159.0895, NRS 159.113, NRS 159.115, NRS 159.117, NRS 159.123, NRS 159.134, NRS 159.1425, NRS 159.1435, NRS 159.144, NRS 159.1455, NRS 159.1535, NRS 159.154, NRS 120A.500, NRS 143.020, NRS 143.030, NRS 428.070, NRS 433.504, NRS 433A.190, NRS 433A.220, NRS 433A.380, NRS 433A.390, NRS 433A.400**

**Repeals: NRS 159.0365**


# Wills/Probate

## SB141

**Civil  
District Court**

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- SB 141 Uniform International Wills Act
  - International will requirements:
    - In writing and signed or acknowledged by one maker
    - Two witnesses
    - Person authorized to act
    - Certificate of compliance



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**Notes:** A person authorized to act is defined as “a person who, by section 13 of this act or by the laws of the United States, including members of the diplomatic and consular service of the United State designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.” An active attorney licensed in Nevada and in good standing qualifies as an authorized person. An international will is subject to the ordinary rules of revocation of wills.

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This bill enacts the Uniform International Wills Act, which was promulgated by the National Conference of Commissioners on Uniform State Laws in 1973 and was intended to provide testators with a way of making wills that would be valid as to form in all states adopting the uniform act and all countries joining the Washington Convention of 1973.

Sections 6, 7 and 8 of this bill provide the form and requirements for the valid execution of an international will. Section 7 provides that the will must be made in writing, signed by the testator and acknowledged by two witnesses and a person authorized to act in connection with international wills. Section 8 provides where signatures must be placed, how the will must be dated and that the testator can make a declaration concerning the safekeeping of his will.

Section 9 of this bill provides that a certificate must be attached to the will establishing that the requirements for executing an international will have been complied with, and sets forth the contents of that certificate. Section 10 of this bill provides that the certificate is conclusive of the formal validity of the will. The absence or irregularity of a certificate does not affect the formal validity of the will. Section 11 of this bill provides that an international will is subject to the ordinary rules of revocation of wills.

Section 13 of this bill provides that attorneys admitted to practice in this State and in good standing are deemed to be authorized persons in relation to international wills.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=371>

**Effective October 1, 2009**

**Amends: Title 12 (new chapter)**



Civil District Court

- SB 277 Wills and Trusts
  - Additional exception to revocation of will re spouse of new (subsequent) marriage
  - If will revoked, new spouse/kid takes intestate
  - Siblings' kids take by right of representation
  - Felony conviction no longer automatic disqualification of executor/PR
  - No-contest clause exceptions



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**Notes:** The probate court can decide whether to appoint an executor/PR with felony conviction, as well as whether a nonresident individual or banking institution that is not authorized to do business in Nevada can serve. A beneficiary of a will with a no-contest clause may bring a court action without reduction/elimination of their share, in certain circumstances. Prove up for a will can include a copy of a non-testamentary trust, or proof showing that it was “more likely than not” the will existed. Attorneys may charge hourly/contingent rates and for “extraordinary services” in some cases. Numerous other

provisions.

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Existing law provides, with certain exceptions, that a will is revoked as to a person’s spouse if the person married the spouse after making a will and the spouse survives him. Section 2 of this bill additionally provides that the will is not revoked if the spouse is provided for by a transfer of property outside of the will under certain circumstances. (NRS 133.110) Further, section 2 provides that if a will is revoked as to a spouse, the spouse is entitled to the same share of the property as if the person who made the will had died intestate, meaning without a will. Section 3 of this bill amends the law in a similar manner as section 2 with regard to a child who is born after his parent made a will that does not provide for the child. (NRS 133.160)

Existing law provides that if a person dies without a will and he leaves no issue, meaning children, grandchildren or more remote lineal descendants, surviving spouse, father or mother, the person’s estate must be distributed in equal shares to his brothers and sisters and to the children of his deceased brother or sister in equal shares per person. Section 5 of this bill provides that under such circumstances, the person’s brothers and sisters each receive a share and the lawful issue of any deceased brother or sister receive shares by right of representation, which means the lawful issue receive the same share their parents would have received. (NRS 134.060)

Section 8 of this bill generally provides for the enforcement of a no-contest clause in a will with certain exceptions, including that a devisee’s share will not be reduced or eliminated if the devisee institutes legal action to invalidate a will in good faith and based on probable cause. Section 35 of this bill amends the law in a similar manner as section 8 with regard to a no-contest clause in a trust.

Existing law sets forth the qualifications for an executor of an estate, which include that a person must not have been convicted of a felony relating to the position of an executor. Section 9 of this bill gives the court discretion to determine whether a conviction for a felony should disqualify the person from serving in the position of an executor. (NRS 138.020) Existing law sets forth the qualifications for appointment as an administrator of an estate, which include that a person must not have been convicted of a felony relating to the position of an administrator. Section 10 of this bill: (1) amends the law in a similar manner as section 9 with regard to the qualifications for an administrator; and (2) revises the circumstances in which a person who is not a resident of Nevada may be qualified to serve as an administrator and in which a banking

corporation not authorized to do business in Nevada may be qualified to serve as an administrator. (NRS 139.010)

Existing law provides for the appointment by the court of a special administrator to collect and take charge of the estate of a decedent. Section 13 of this bill amends existing law to require a court to appoint as special administrators of an estate only those persons who satisfy the qualifications for appointment as an administrator of an estate. (NRS 140.020) Sections 15-18 of this bill revise certain provisions regarding the support of a decedent's family to authorize the court to make certain decisions if it is deemed advisable considering the family's needs and resources. (NRS 146.010, 146.020, 146.030, 146.050)

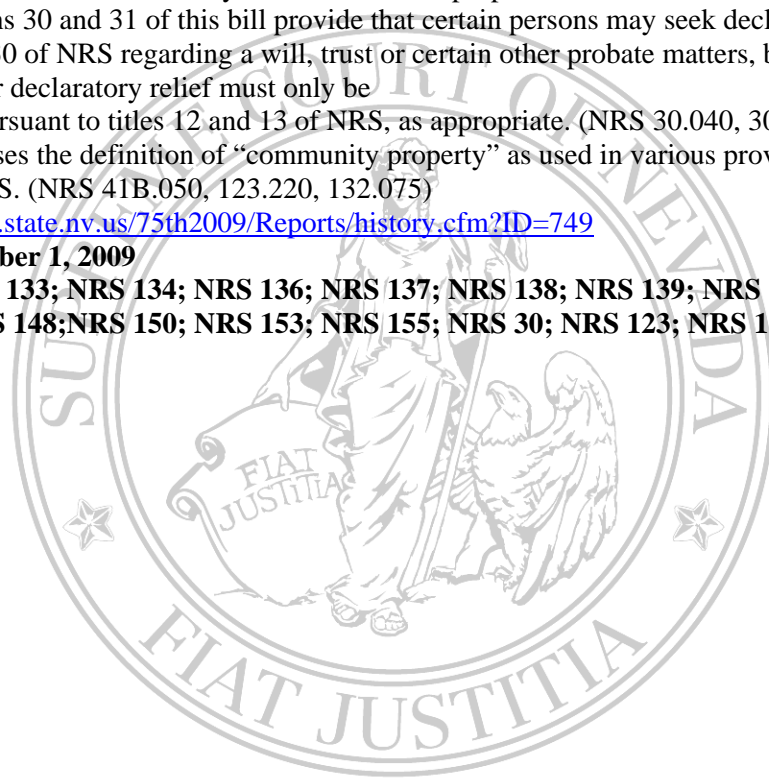
Existing law provides for compensation of an attorney for a personal representative. (NRS 150.060) Sections 21-24 and 27 of this bill provide for compensation of such an attorney based upon, among other things, an hourly basis, the value of the estate and a contingency fee basis. Section 21 also provides for compensation of such an attorney for extraordinary services and defines the term "extraordinary services" for that purpose.

Sections 30 and 31 of this bill provide that certain persons may seek declaratory relief under chapter 30 of NRS regarding a will, trust or certain other probate matters, but such proceedings for declaratory relief must only be commenced pursuant to titles 12 and 13 of NRS, as appropriate. (NRS 30.040, 30.060) Section 32 of this bill revises the definition of "community property" as used in various provisions throughout NRS. (NRS 41B.050, 123.220, 132.075)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=749>

**Effective October 1, 2009**

**Amends: NRS 133; NRS 134; NRS 136; NRS 137; NRS 138; NRS 139; NRS 140; NRS 145; NRS 146; NRS 148; NRS 150; NRS 153; NRS 155; NRS 30; NRS 123; NRS 163**



# Judicial Administration/Funding

## Bail Bonds

AB462

### Judicial Administration Bail Bonds

- AB462 Corporate Surety
  - A corporate surety to transact insurance is sufficient surety to conduct business in every court in the State
  - Dose not prohibit banning bail bond companies that violate court rule or exercise bad practices, etc.



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This bill provides that a corporate surety that is authorized to transact insurance in this State is a sufficient surety for all courts.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=886>

**Effective July 1, 2009**

**Amends: NRS 178.504**

## Civil Filing Fees/Court Funding/More Judges

AB64

### Judicial Administration District Court

- AB 64 New District Court Judges
  - One new judge for the Second JD who is not a family court judge
  - Nine new judges in the Eighth JD, two of whom must be family court judges
  - All new judges serve 4-year terms.



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AOC Legislative Overview 2009

**Notes:** The new judges elected in November 2010 serve four year terms as opposed to six year terms pursuant to Art. 6 Section 5.

**Related Bills:** AB65

**Related Court Cases:** *Halverson v. Secretary of State, 186 P. 893, Nev., July 3, 2008 (No. 51539)*. Petitioner unsuccessfully challenged constitutionality AB 195, which provided for two year terms for District Court Judges.

Sections 1 and 2 of this bill increase the number of district judges in the Second Judicial District, which includes Washoe County, by one district judge, who is not a member of the family court. (NRS 3.010, 3.012)

Sections 3-5 of this bill increase the number of district judges in the Eighth Judicial District, which includes Clark County, by nine district judges, two of whom must be judges of the family court. (NRS 3.010, 3.018, 3.0185)

Section 10 of this bill provides that this bill will become effective if, and only if, Assembly Bill No. 65 of this session, which provides for the collection and disposition of additional court fees, is enacted by the Legislature and becomes effective.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=141>

**Effective: October 1, 2009: Sections 1, 3, 6, 7 and 9; January 3, 2011: Sections 2, 4 and 5  
Amends: NRS 3.012, 3.018, 3.0185**

## AB65

### Court Funding/Fees District Court

- AB 65 New Filing Fees
  - \$20.00 increase to cost of filing of certain civil actions/transfers in DC (courts in general)
  - \$20.00 increase may be imposed by county via ordinance for certain civil actions in DC (court security)
  - \$50.00 upon Notice of Default/Election to Sell recording (foreclosure mediation)



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**Notes:** Section 2 establishes appropriate uses of the funds “for the benefit of the court” such as personnel. Section 3 establishes appropriate uses of the funds for court security, such as providing security training to personnel. Section 5 provides that 1.5 percent of the \$50.00 collect is directed to the county recorder, the rest to the Account for Foreclosure Mediation to be administered by the Court Administrator.

**Related Bill:** AB64 and AB149

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Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology, and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for bailiffs or deputy marshals assigned to work in a courtroom.

Section 5 of this bill requires a county recorder to collect a fee of \$50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. However, section 5 also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder. (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in section 2 of this bill, the fees collected pursuant to section 2 must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011. Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to

remit, from the special account administered and maintained pursuant to section 2 of this bill, an amount equal to \$104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county. Section 8 of this bill provides that sections 6 and 7 of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=142>

**Effective July 1, 2009**

**Amends: NRS 19 and NRS 107**

## AB531

### Court Funding/Fees

- AB 531 Administrative Assessments
  - Gives Court Administrator/Judicial Branch more flexibility in allocating AA resources
  - Authorizes Executive Branch to use AA funds for domestic violence programs
  - Funds not distributed by EB are transferred to State General Fund



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**Notes:** NRS 176.059 provides that a person who pleads or is found guilty of a misdemeanor is required to pay an administrative assessment (AA) in addition to any other penalty imposed by the court. A portion of the AA funds are used to support the courts. This bill does not change the percentage of funds received.

**Related Court Cases:** *Board of Commissioners v. White*, 102 Nev. 587 (1986), administrative assessments constitutional; *McKay v. City of Las Vegas*, 106 Nev. 203 (1990), sliding scale calculation proper.

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Under existing law, a person who pleads or is found guilty of a misdemeanor is required to pay an administrative assessment in addition to any other penalty imposed by the judge. A portion of the proceeds of those assessments must be deposited in the State General Fund and distributed for certain prescribed uses. (NRS 176.059)

This bill revises the provisions governing the distribution of those proceeds by: (1) authorizing the Court Administrator to allocate a certain percentage of the proceeds among several prescribed uses; (2) authorizing the use of such proceeds pursuant to legislative authorization for the support of programs within the Office of the Attorney General related to victims of domestic violence; and (3) providing that any proceeds deposited in the State General Fund that are not distributed must be transferred to the uncommitted balance of the State General Fund.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=1063>

**Effective July 1, 2009**

**Amends: NRS 176.059**



**SB433**

**Court Funding/Fees**  
All Courts

- SB 433 Unclassified Pay Bill
  - Establishes maximum annual salaries for certain state employees
  - Requires unpaid furlough period of one day per month/96 hours for full time employee
  - Exceptions OK if position is "necessary to the protection of public health/safety/welfare"



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**Notes:** Classified employees (ex. 96 hours) are treated differently than unclassified/exempt/nonclassified employees (ex. 12 days). Also, part time employees are not exempt. Pursuant to ADKT 437, Court employees are not required to take furloughs until the Court has reviewed the budget for the first quarter of fiscal year 2010.

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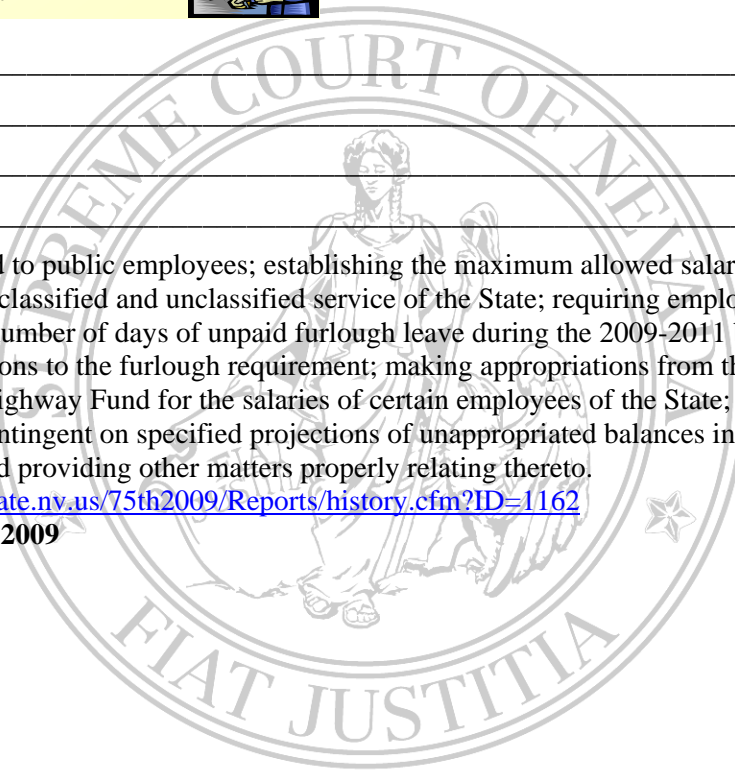
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This bill is related to public employees; establishing the maximum allowed salaries for certain employees in the classified and unclassified service of the State; requiring employees of the State to take a certain number of days of unpaid furlough leave during the 2009-2011 biennium; providing exceptions to the furlough requirement; making appropriations from the State General Fund and State Highway Fund for the salaries of certain employees of the State; making certain appropriations contingent on specified projections of unappropriated balances in the State General Fund; and providing other matters properly relating thereto.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1162>

**Effective July 1, 2009**



# Court Records

## AB46

### Judicial Administration All Courts

- AB 46 Mental Health Records and Firearms
  - Requires court to transmit records of adjudication regarding mental health to Central Repository for NV Records of Criminal History to NICS (feds)
  - Records can be inspected and corrected
  - Provides procedure for removal of records/rights restored



Slide 1

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**Notes:** NRS 202.360 prohibits a person from owning or possessing a firearm if that person has been adjudicated mentally ill or has been committed to a mental health facility. This bill requires a court to transmit certain documents to the Central Repository, i.e., an order, plea, or verdict re involuntary admission to mental health facility, appointment of guardian for person w/mental defect, finding of incompetency to stand trial, verdict of acquittal by reason of insanity or plea of guilty but mentally ill.

Pursuant to federal law, the Central Repository must then transmit these records to the National Instant Criminal Background Check System records (NICS) using the appropriate form. These documents are not public records for purposes of NRS 239 et. seq.

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Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of

action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=109>

**Effective January 1, 2010**

**Amends: NRS 174.035; NRS 175.533; 175.539; NRS 178.425; NRS 179A; NRS 159; NRS 202.362; NRS 433A.310**

**AB497 – Existing law requires the Department of Corrections and the Division of Parole and Probation of the Department of Public Safety to provide certain information to the Advisory Commission on the Administration of Justice and to assist the Commission in carrying out its statutory duties.** (NRS 176.0127) Section 1 of this bill requires the Central Repository for Nevada Records of Criminal History to facilitate the collection of statistical data, coordinate the exchange of such data with certain other entities involved in criminal justice and provide the Commission with available statistical data, information and research requested by the Commission.

Section 3 of this bill requires the Department of Corrections to provide information and research to the Commission concerning rates of recidivism and the effectiveness of educational and vocational programs.

**Section 5 of this bill requires the Court Administrator to compile statistical information concerning criminal cases and include certain statistics regarding specialty court programs in the report that the Court Administrator is required to provide to the Legislature before each legislative session concerning specialty court programs.** Section 5 also deletes obsolete statutory language referring to a report that was required to be made to the Legislature in 2007.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=958>

**Effective July 1, 2010**

## **Court Reporters**

**AB509 – Section 1 of this bill revises the definitions applicable to the provisions governing court reporters.** Section 2 of this bill includes reporting procedures as a topic that must be covered in a course of study to fulfill the educational requirements to take an examination for a certified court reporter's certificate.

Sections 3-6 of this bill provide for similar treatment, with regard to disciplinary action, of both certificate holders and licensees. Section 4 of this bill also includes untimely delivery of a transcript as one of the grounds for disciplinary action under chapter 656 of NRS.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=985>

**Effective October 1, 2009**

# Credit Card Fee Collection

AB548

## Judicial Administration Credit Card Fees

- AB548 Credit Card Fees
  - Allows a court to charge an average fee, based upon the fiscal year, on each credit card transaction in order to recoup the fees paid by the court to the credit card/servicer



Slide 2

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Existing law limits the amount of any fee that may be charged by a state agency or local government for the use of a credit card, debit card or electronic transfer of money to make a payment to the state agency or local government to an amount not to exceed the cost to the state agency or local government for the transaction. (NRS 353.1465, 354.770)

Sections 1 and 2 of this bill revise that limitation to allow each state agency and local government to aggregate these fees over the period of a fiscal year to determine the maximum amount that may be charged per transaction. Section 3 of this bill makes the same change to the limitation on the amount that a court may charge for the use of a credit card or debit card. This bill also clarifies that the fees charged by state agencies, local governments and the courts for the use of a credit card or debit card and by state agencies and local governments for the use of an electronic transfer of money are convenience fees

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1114>

**Effective July 1, 2009**

**Amends: NRS 353.1465, NRS 354.770, NRS 1.113**

# Justice Court Masters

AB63

## Judicial Administration Justice Court Masters

- AB63 Masters in justice court
  - Allows the appointment of masters in justice court to perform duties approved by the Supreme Court
  - Master must have the same qualifications as a JP in the jurisdiction, and can't work as a master until he/she completes a course of education prescribed by the Supreme Court
  - Masters can't hear DUI, vehicular manslaughter, or domestic violence cases; and may not conduct prelims

Slide 3

AOC Legislative Overview 2009

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Section 1 of this bill authorizes the appointment of masters in justice courts to perform certain duties as approved by the Nevada Supreme Court. The master must possess qualifications which are at least equal to those required of a justice of the peace in the township in which the master is appointed, and the master may not perform any duties of a master until the master has completed

the course of instruction prescribed by the Nevada Supreme Court. Further, the master is entitled to receive a salary or a per diem salary set by the board of county commissioners.

However, a master may not preside over: (1) any misdemeanor action for an act of domestic violence, vehicular manslaughter or driving under the influence; or (2) any preliminary hearing for a gross misdemeanor or felony.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=140>

**Effective July 1, 2009**

**Amends: NRS Chpt. 4**

## Retirement/PERS/JRS

AB92

### Judicial Administration

#### All Courts

- AB 92 Senior Judge Program
  - Applies to SC Rule 10 and SC Rule 12 judges
  - JRS allowances OK as long as Judge is 60 and six months have passed since retirement date; judge can't reenroll in JRP
  - Senior judges receive compensation for service and retirement benefits



Slide 3

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**Notes:** This bill affects primarily the Senior Judges who are enrolled in the Judicial Retirement System Plan (JRS). Many judges are enrolled in the Public Employees Retirement System Plan (PERS).

**Related Bills:** AB488 (PERS Judges)

Section 2 of this bill allows a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System to qualify to receive allowances under the Judicial Retirement Plan for the duration of his active service if he is at least 60 years of age at the time of his reemployment and he accepts the employment at least 6 months after the effective date of his retirement. Section 3 of this bill prohibits a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System from enrolling in the Judicial Retirement Plan.

Sections 5-8 of this bill provide that a retired justice or judge who is reemployed and commissioned as a senior justice, senior judge, senior justice of the peace or senior municipal court judge is entitled to receive a retirement allowance in addition to compensation for his service and is entitled to receive additional service credit for actual time served if he reenrolled in a retirement plan.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=206>

**Effective July 1, 2009, Expires June 30, 2015**

**Amends: NRS 1A.360; NRS 2.060; NRS 3.090**



**AB488**

**Judicial Administration**  
All Courts

- AB 488 PERS/Critical Labor Shortage
  - Policy to limit the exception to “positions of extreme need”
  - Positions for which there are critical labor shortages must be determined in an open public meeting by the designating authority
  - SC designates positions for Judicial Branch



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**Notes:** State law provides that PERS Plan retirees are generally disqualified from receiving allowances from the Plan if they go back to work for a public employer as an independent contractor. NRS 286.523 represents the exception to this rule if there is a “critical labor shortage.” This bill extends the exception through June 30, 2015. Additional criteria for determining whether there exists a critical labor shortage (special circumstances, efforts in recruitment). Written findings must be submitted to the PEBP Board, who in turn prepares a biennial report for the

legislature.

**Related Bills:** AB92

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Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees’ Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. 1077) This bill extends the prospective expiration of this exception to June 30, 2015.

Section 4 of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. Section 4 also requires the designating authority to submit written findings of the determination to the Public Employees’ Retirement Board on a form prescribed by the Board.

The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=940>

**Effective May 29, 2009 and June 30, 2015**

**Amends: NRS 286.523**

**SB41**

**Judicial Administration**  
All Courts

- SB 41 PERS/Withdrawal Rules
  - Selection of liaison officer now mandatory
  - Clarifies calculation of penalty
  - JP/Muni judges required to provide written notice of withdrawal from PERS Plan by date certain



Slide 6

AOC Legislative Overview 2009

**Notes:** Presently, a Justice of the Peace or Municipal Court Judge may elect to participate in the PERS Plan or the Judicial Retirement System (JRS) Plan if available. This bill provides that if a Judge is already a member of PERS, and wishes to enroll in JRS, he/she must provide notice to the PERS board on or before March 31 of the year immediately following election or within 90 days after appointment. As of July 1, 2009 a sitting has until October 1, 2009 to provide notice for the change

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Existing law provides that public employers or groups of public employers that participate in the Public Employees' Retirement System may select employees to act as liaison officers to certify records and coordinate matters pertaining to retirement between the System and members or participating public employers. (NRS 286.288) Section 1 of this bill makes the selection of such liaison officers mandatory and not permissive.

Existing law provides for the immediate assessment of a penalty against a public employer for failing to file payroll reports or remit public employer contributions in a timely manner. (NRS 286.460) Section 2 of this bill clarifies that the penalty must be calculated based on the most recent payroll report submitted to the System by the delinquent public employer.

Existing law authorizes a justice of the peace or municipal judge to choose to participate in the Judicial Retirement Plan if the governing body of the applicable local government allows the justices or judges to participate in the Plan. If a justice of the peace or municipal judge is a member of the System on the date that he chooses to participate in the Plan, he must give written notice to the Public Employees' Retirement Board of his intention to withdraw from the System and to become a member of the Plan. (NRS 1A.285) Section 3 of this bill requires that such written notice be received by the Board by March 31 of the year immediately following the year in which the justice of the peace or municipal judge was elected or within 90 days after his appointment, as the case may be. Section 4 of this bill provides that a person who, on July 1, 2009, is a justice of the peace or a municipal judge, as applicable, of a local government that has chosen to allow such persons to participate in the Plan has until October 1, 2009, to submit written notice to the Board of his intention to withdraw from the System and become a member of the Plan. <http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=68>

**Effective July 1, 2009**

**Amends: NRS 286.288; NRS 286.460; NRS 1A.285**

**SB103 – Existing law prescribes certain requirements relating to the reinstatement by a retired public officer or employee, or surviving spouse thereof, of coverage under the health insurance plan of his last public employer.** (NRS 287.0475) Sections 2 and 16 of this bill bifurcate the reinstatement requirements such that section 2 contains the requirements for retirees of local governments to reinstate coverage under the plans of their former local governmental

employer and section 16 contains the requirements for retirees of the State to reinstate coverage under the Public Employees' Benefits Program.

Under existing law, the former local governmental employer of a retiree who participates in the Public Employees' Benefits Program is required to pay a portion of the cost of coverage of the retiree under the Program, known as a subsidy, based on the number of years of service of the retiree with the local government. (NRS 287.023)

**Section 4 of this bill revises the standard for determining the eligibility of a retiree of a local government to continue coverage upon retirement.** Section 18 of this bill deems retired officers and employees of local governments who were covered under the Program for the period beginning on October 1, 2003, and ending on June 30, 2009, to have satisfied this revised standard. If a subsidy required to be paid by a local government to the Program for coverage of one of its retirees is delinquent by more than 90 days under existing law, the Program is authorized to request that an amount equal to the delinquent payment be withheld from the next distribution of the Local Government Tax Distribution Account to which the local government is entitled. (NRS 354.671) In addition to that remedy, section 3 of this bill specifically authorizes the Program to bring an action in court to recover such delinquent payments and any penalties and late fees assessed by the Program on such payments. Section 17 of this bill makes that authority applicable retroactively to allow the Program to bring actions to recover payments that were delinquent for at least 90 days on or after October 1, 2003, and to recover any penalties or late fees that were assessed by the Program on such payments.

Under existing law, a local government has the option of entering into a contract with the Program to obtain coverage for its officers and employees under the Program. (NRS 287.025) Section 5 of this bill clarifies that this option is available to a local governmental employer only if the local governmental employer agrees to obtain coverage under the Program for all of its officers and employees and their dependents, except for certain employees who are excluded based on their participation in certain other plans. Sections 9 and 14 of this bill contain similar conforming clarifications. (NRS 287.043, 287.045)

The Executive Officer of the Public Employees' Benefits Program is currently authorized to appoint certain specified personnel, who are in the unclassified service. (NRS 287.0426) Section 8 of this bill eliminates the references to the specific titles of those personnel and instead authorizes the Executive Officer to appoint such officers and employees in the unclassified service as are necessary for the administration of the Program.

Under existing law, the coverage of a retiree under the Program terminates if his former local governmental employer terminates its contract for coverage with the Program. (NRS 287.043) Local governmental retirees who were enrolled in the Program on November 30, 2008, received grandfather rights to retain coverage under the Program despite the cancellation by their former employer of its contract with the Program after that date. (Section 15 of Chapter 496, Statutes of Nevada 2007, p. 2882) Section 9 of this bill clarifies the existing law relating to such a termination of coverage to specifically exclude its applicability to retirees who hold those grandfather rights. Section 9 also clarifies the authority of the Board of the Program to adopt regulations, including regulations relating to the coverage provided by the Program to active and retired officers and employees of local governments.

Section 19 of this bill ratifies any regulations adopted by the Board on or after October 1, 2003, as conforming to the statutory authority of the Board on the date of their adoption. In addition, section 9 requires the Board to adopt regulations relating to the procedures for: (1) payments by local governments of the subsidies for coverage of their retirees under the Program; and (2) termination of such coverage as a result of delinquent subsidy payments. Effective November 1, 2009, section 10 of this bill eliminates the requirement that the Program offer a flexible benefit plan to participants in the Program who are provided coverage under Medicare. (NRS 287.043) Section 11 of this bill clarifies that money received by the Program for the purpose of offsetting the costs of providing coverage to current and future state retirees is

required to be deposited in the State Retirees' Health and Welfare Benefits Fund instead of the Fund for the Public Employees' Benefits Program. (NRS 287.0435, 287.04362)

Under existing law, a state agency is required to pay to the Program a certain portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to authorize deductions from their compensation for the remaining portion of the costs of coverage. (NRS 287.046) In addition, existing law authorizes the payment by state agencies, within the limits set biennially by law, of a portion of the costs of coverage for their officers and employees under the Program from authorized or appropriated money. (NRS 287.044) Section 13 of this bill gives the Board of the Program the authority to allocate money paid by participating state agencies for the costs of coverage under the Program between officers and employees and their dependents. Section 13 also consolidates the requirements relating to the payment of the costs of coverage for active state officers and employees under the Program. As a result of this consolidation, section 15 only addresses the payment of costs of coverage for state retirees under the Program. For the purposes of calculating the amount of the subsidy for the coverage of a state retiree under the Program, section 15 also expands the prohibition against the proration of any year of service from years of state service to years of service by the retiree with a local governmental employer.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=204>

**Effective July 1, 2009, and November 1, 2009**

**SB415 – Section 1 of this bill establishes the amount of the State's share of the costs of premiums or contributions for group insurance for state officers and employees who participate in the Public Employees' Benefits Program.** (NRS 287.044, 287.0445, 287.046)

Section 2 of this bill also establishes the base amount that is used to calculate the share of the costs of premiums or contributions for group insurance that is required to be paid by the state and local governments for retired public officers and employees. (NRS 287.023, 87.046)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=1092>

**Effective July 1, 2009**

**SB427 – Retired public employees receive retirement allowances through membership in and contributions to the Public Employees' Retirement System. (Chapter 286 of NRS) This bill makes a number of changes to the System.**

Section 1.8 of this bill reduces the postretirement increases for retirees who become members of the System on or after January 1, 2010, so that the increase in benefits caps at 4 percent at the 12th anniversary and each year thereafter. Currently, it would increase again to 5 percent at the 14th anniversary. The rates at which a member and an employer contribute to the System and the amount of a member's monthly retirement allowance are based on the member's compensation while employed, subject to certain limitations. (NRS 286.025, 286.410, 286.535, 286.537, 286.551) Section 2 of this bill revises the type of callback pay that may be considered compensation for employees who become members of the System on or after January 1, 2010.

Section 3 of this bill requires the Public Employees' Retirement Board to post on its website any document that a public employer is required to submit to the System on or after January 1, 2010, relating to the contribution mechanism used by the public employer. Section 4 of this bill provides that the term of the members of the Police and Firefighters' Retirement Fund Advisory Committee are 4 years and authorizes removal of the members only for cause.

Sections 4.3, 4.5 and 4.7 of this bill allow the Public Employees' Retirement System to retain the contribution rate when it exceeds the actuarially determined rate by less than 2 percent to reduce the unfunded liability of the system. (NRS 286.410, 286.421, 286.450)



Under existing law, public employers are required to periodically file payroll reports and remit contributions to the System with respect to their employees. (NRS 286.460) Section 5 of this bill makes a public employer that reports ineligible wages responsible to the employee for any resulting impact to the employee's benefit.

Under existing law, a member of the System other than a police officer or firefighter is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at any age if he has at least 30 years of service. (NRS 286.510) Section 6 of this bill increases the age at which a member whose effective date of membership is on or after January 1, 2010, is eligible to retire with at least 10 years of service from 60 years to 62 years.

Under existing law, a member of the System who is a police officer or firefighter is eligible to retire at age 65 if he has at least 5 years of service, at age 55 if he has at least 10 years of service, at age 50 if he has 20 years of service and at any age if he has at least 25 years of service. (NRS 286.510) Section 6 of this bill provides that such a member whose effective date of membership is on or after January 1, 2010, is eligible to retire at age 65 if he has at least 5 years of service, at age 60 if he has at least 10 years of service and at age 50 if he has 20 years of service, thus eliminating the ability of such later-hired police officers and firefighters to retire after 25 years of service regardless of age.

Under existing law, a retirement benefit is required to be reduced by 4 percent of the unmodified benefit for each full year, and an additional 0.33 percent for each additional month, that the member is under the appropriate retirement age. (NRS 286.510) Section 6 of this bill increases the amount of such reductions for members who have an effective date of membership on or after January 1, 2010, to 6 percent of the unmodified benefit for each full year, and an additional 0.5 percent for each additional month, that the member is under the appropriate retirement age.

Under existing law, the monthly retirement allowance is calculated by multiplying a member's average compensation, over the member's 36 consecutive months of highest compensation, by 2.5 percent for every year of service earned before July 1, 2001, and 2.67 percent for every year of service earned thereafter. (NRS 286.551) Section 7 of this bill provides that the monthly retirement allowance for each member whose effective date of membership is on or after January 1, 2010, will be determined by multiplying the member's average compensation by 2.5 percent for every year of service. Section 7 also limits, for a member whose effective date of membership is on or after January 1, 2010, to 10 percent per year the amount of an increase in compensation that can be considered when determining a retirement allowance, as calculated over a 60-month period that commences 24 months immediately preceding the 36 consecutive months of highest compensation. Section 1.7 of this bill then entitles an employee whose retirement allowances are so limited to a refund for a portion of the employee's contributions to the System.

Existing law prescribes certain requirements relating to the reinstatement by a retired public officer or employee, or surviving spouse thereof, of coverage under the health insurance plan of his last public employer. (NRS 287.0475) Sections 9 and 12 of this bill bifurcate the reinstatement requirements such that section 9 contains the requirements for retirees of local governments to reinstate coverage under the plans of their former local government employer and section 12 contains the requirements for retirees of the State to reinstate coverage under the Public Employees' Benefits Program.

Under existing law, a state agency is required to pay to the Program a certain portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. (NRS 287.046) Calculation of the subsidy for local government retirees is made in the same manner. (NRS 287.023) For employees who are initially hired by the State on or after January 1, 2010, section 11 of this bill: (1) eliminates the subsidy for coverage under the Program for retired officers and employees who have less than 15 years of service, with the exception of disabled retirees; and (2) requires continuous coverage under the Program by



persons since their retirement to qualify for the subsidy. Section 10 of this bill makes conforming changes for local government retirees.

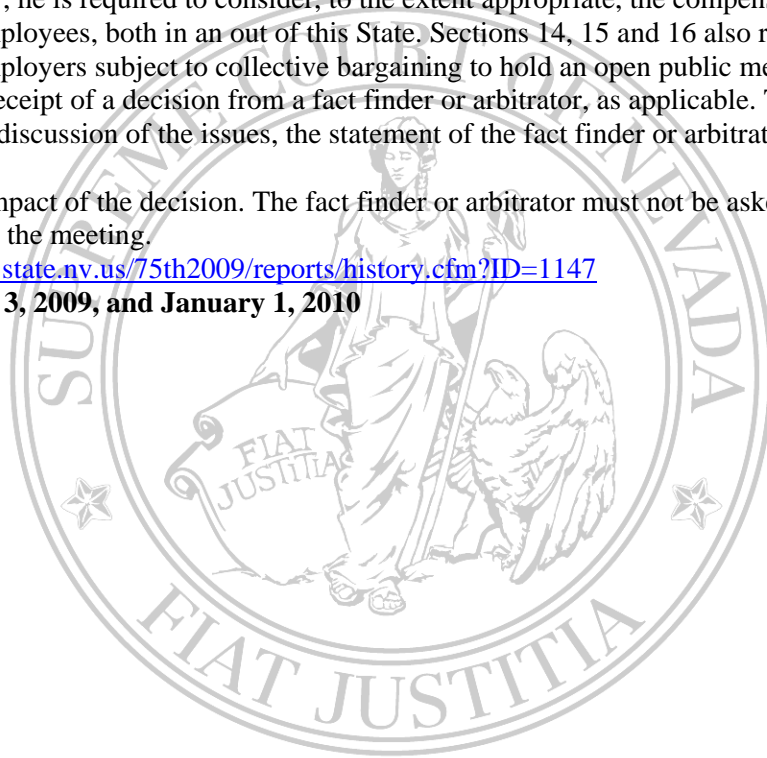
Existing law sets forth various requirements concerning relations between local governments and their employees. Section 13 of this bill requires a new, extended or modified collective bargaining agreement to be approved by the governing body of the local government employer at a public hearing. It also requires the chief executive officer of the local government to provide a report on the fiscal impact of the agreement. Section 14 of this bill adds a requirement that before a dispute can be submitted to a fact finder, the parties to the dispute governed by chapter 288 of NRS must have failed to reach an agreement after at least six meetings.

Sections 14, 15 and 16 of this bill require a fact finder or arbitrator, in determining the financial ability of a local government employer to grant monetary benefits, to consider funding for the current year being negotiated, or, in the case of a multi-year contract, the ability to pay over the life of the contract. If the fact finder or arbitrator determines that there is such a current financial ability, he is required to consider, to the extent appropriate, the compensation of other government employees, both in and out of this State. Sections 14, 15 and 16 also require local government employers subject to collective bargaining to hold an open public meeting within 45 days after the receipt of a decision from a fact finder or arbitrator, as applicable. The meeting must include a discussion of the issues, the statement of the fact finder or arbitrator and the

overall fiscal impact of the decision. The fact finder or arbitrator must not be asked to discuss the decision during the meeting.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=1147>

**Effective June 3, 2009, and January 1, 2010**



# Juvenile

## Certification

AB237

### Children/Juvenile District Court

- AB 237 Certification of Juveniles as Adults
  - Exception to presumptive certification modified
  - Presumptive certification age requirement raised from 14 to 16 in serious cases (sexual assault, violence)



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**Notes:** The juvenile court has authority to certify a child as an “adult” for purposes of prosecuting certain criminal charges. NRS 62B.390 provides for a “presumptive certification” in certain cases, but there are exceptions. This bill modifies one of the exceptions so that the court can consider certain facts without requiring the child to admit to any wrongdoing.

**Related Court Cases:** *In Re William M.*, 124 Nev. Adv. Op No. 95 (2008); (language of exception to presumptive certification found unconstitutional).

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Existing law provides for the certification of a child as an adult for criminal proceedings under certain circumstances. (NRS 62B.390) Under the concept that is commonly referred to as “presumptive certification,” the juvenile court is required to certify a child for criminal proceedings as an adult if the child is charged with certain offenses and was 14 years of age or older at the time of allegedly committing the offense, unless an exception applies. (NRS 62B.390) One such exception to presumptive certification is when the juvenile court specifically finds by clear and convincing evidence that the actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child. The Nevada Supreme Court recently ruled that this exception to presumptive certification violates a child’s right against self-incrimination under the Fifth Amendment to the United States Constitution by requiring the child to admit to criminal conduct to challenge certification. (*In re William M.*, 124 Nev. Adv. Op. No. 95 (2008)) This bill eliminates the exception to presumptive certification that was found unconstitutional by the Nevada Supreme Court and provides instead that the juvenile court is not required to certify the child as an adult if the child has substance abuse or emotional or behavioral problems that may be appropriately treated through the jurisdiction of the juvenile court. This bill also raises the threshold age at which a child may be certified as an adult under presumptive certification from 14 years of age to 16 years of age.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=482>

**Effective May 11, 2009**

**Amends: NRS 62B**

**SB235**

**Children/Juvenile  
District Court**

- SB 235 Transfer Hearings for Juveniles
  - Hearing required in JC if delinquent act:
    - occurred between age 16-18
    - would have been A or B felony in adult court
    - ID by law enforcement before 21
    - Apprehended by law enforcement after 21
  - If PC found, court transfers to adult court or dismisses



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**Notes:** NRS 62B provides that certain charges against juveniles are not “delinquent acts” that fall under the jurisdiction of the juvenile court (murder, sexual assault, etc.) This bill adds to that list category A and B felonies/fact pattern under certain circumstances. Existing law provides the 10 factors a court must consider when determining whether a transfer to adult court is appropriate.

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If a person should be transferred from the juvenile court to the criminal court for criminal proceedings if: (1) the person is charged with the commission of a delinquent act that occurred when the person was at least 16 years of age but less than 18 years of age; (2) the delinquent act would have been a category A or B felony if committed by an adult; (3) the person is identified by law enforcement as having committed the delinquent act before the person reaches 21 years of age; and (4) the person is apprehended by law enforcement after the person reaches 21 years of age. If the juvenile court finds probable cause to believe that the person committed the delinquent act, the juvenile court is required to consider a number of factors in determining whether, based upon the interests of justice and the need for protection of the public, the charges should be dismissed and the person should be discharged or the case and record should be transferred for criminal proceedings.

Under existing law, the juvenile court does not have jurisdiction over certain offenses that are committed by juveniles, such as murder, attempted murder and other serious offenses. (NRS 62B.330) Section 3 of this bill excludes from the jurisdiction of the juvenile court a category A or B felony and any other related offense arising out of the same facts as the category A or B felony if the person was at least 16 years of age but less than 18 years of age when the offense was committed and the person: (1) is not identified by law enforcement as having committed the offense and charged before the person reaches the age of 20 years, 3 months; or (2) is not identified by law enforcement as having committed the offense before the person reaches 21 years of age.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=644>

**Effective October 1, 2009**

**Amends: NRS 62A; NRS 62B**

# Sex Offenders

## AB81

### Children/Juvenile District Court

- AB 81 Recidivism/Treatment Programs for Juvenile Sex Offenders
  - Department of Health and Human Services (DHHS) shall establish a program to analyze recidivism rates and report on effectiveness of treatment programs
  - Juvenile records transmitted to DHHS



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**Notes:** This bill repeals provisions requiring the Central Repository to analyze data concerning the recidivism rates of sex offenders, and to request and receive certain information regarding children. Attorneys are no longer statutorily authorized to receive criminal history records for their clients upon request. Records obtained pursuant to NRS 179A must be used solely for purpose intended. Provisions requiring a Repository for Information Concerning Missing Persons is also repealed.

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Section 1.3 of this bill defines the term “records of criminal history of the United States or another state” for the purposes of disseminating certain information relating to certain offenses to employers and the use of such information.

Section 2 of this bill authorizes the Records and Technology Division of the Department of Public Safety to request and receive from the Federal Bureau of Investigation information on the background and personal history of certain persons about whom an agency of this State or a local government is authorized by law to have accurate personal information for the protection of the agency or persons within the agency’s jurisdiction. (NRS 179A.075)

Section 3 of this bill: (1) revises the circumstances in which an agency of criminal justice must provide records of criminal history to the Division of Welfare and Supportive Services of the Department of Health and Human Services or to the Aging Services Division of the Department; and (2) removes the requirement that agencies of criminal justice provide a person’s records of criminal history to the person’s attorney under certain circumstances. (NRS 179A.100)

Existing law requires the Director of the Department of Public Safety to establish a program within the Central Repository for Nevada Records of Criminal History to compile and analyze data concerning the recidivism of offenders who commit sexual offenses and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders.

Section 25 of this bill repeals those provisions of existing law. (NRS 179A.270, 179A.280, 179A.290) Sections 15.3, 15.5 and 15.7 of this bill require the Director of the Department of Health and Human Services to establish a substantially similar program within the Department to compile and analyze data concerning the recidivism of juvenile sex offenders and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders.

Section 15.9 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to provide certain information collected by the Division concerning acts committed by a child adjudicated delinquent to the Director of the Department rather than to the Central Repository for use in the program established pursuant to sections 15.3, 15.5 and 15.7 of this bill. (NRS 62H.220)

Section 19 of this bill: (1) removes the provisions authorizing the Central Repository and the Investigation Division of the Department of Public Safety to send requests for certain

identifying information regarding certain missing children to the parents or guardians of such children; (2) removes the duty of a law enforcement agency which receives such identifying information to transmit that information to the Central Repository and the Investigation Division; and (3) removes the duty of the Central Repository and the Investigation Division to compare any such identifying information received with the information on file concerning unidentified deceased children. (NRS 432.200)

Section 25 of this bill repeals the provisions which provide for the creation of the Repository for Information Concerning Missing Persons within the Central Repository and the provision of a toll-free telephone service concerning information about missing persons. (NRS 179A.400, 79A.410)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=180>

**Effective October 1, 2009**

**Amends: NRS 179A (numerous sections); NRS 62H; NRS 239B; NRS 432**


## Subcommittee on Juvenile Justice

SB113

**Children/Juvenile  
District Court**

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- SB 113 Two new subcommittees for Advisory Commission
  - Subcommittee on Juvenile Justice
  - Subcommittee on Victims of Crime
  - Staff support responsibilities transferred from AG to LCB



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**Notes:** Both subcommittees are required to study relevant issues and provide a report and recommendations to the Advisory Commission on the Administration of Justice (Commission).

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Section 2 of this bill creates in statute the Subcommittee on Juvenile Justice of the Advisory Commission on the Administration of Justice. Section 2 also: (1) requires the Chairman of the Commission to appoint the members of the Subcommittee; (2) requires the Subcommittee to study issues related to juvenile justice and report to the commission with recommendations to address such issues; and (3) sets forth the salaries and per diem that members of the Subcommittee may receive.

Section 3 of this bill creates in statute a Subcommittee on Victims of Crime of the Advisory Commission on the Administration of Justice. Section 3 also: (1) requires the Chairman of the Commission to appoint the members of the Subcommittee; (2) requires the Subcommittee to study issues related to victims of crime and report to the Commission with recommendations to address such issues; and (3) sets forth the salaries and per diem that members of the Subcommittee may receive.

Section 5 of this bill transfers responsibility for staff support of the Advisory Commission from the Attorney General to the Director of the Legislative Counsel Bureau.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=250>

**Effective July 1, 2009**

**Amends: NRS 176**



# Treatment/DCFS

## AB364

### Children/Juvenile District Court

- AB 364 Protection of Children in Custody
  - Child welfare service agencies required to develop policies/procedures re timely access to psychotropic medication
  - In an emergency admission, 5 days to file petition for placement; evidentiary hearing requirement clarified
  - Additional hearing in adoption cases



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**Notes:** NRS 432B provides procedure for petitioning the court to order the admission of children with emotional disturbances to a locked facility for treatment. This bill provides some additional safeguards for these children. Section 6 requires that any second opinion evaluations must be conducted timely and by a team not affiliated with facility where the child has been admitted. Same standard for renewal/extension. Also, the court may consider a verbal statement in opposition to the petition for admission.

In adoption cases, agency must now

provide court with a copy of any order that provides for visitation with a sibling, and the court must hold a hearing to determine whether to include those visitation provisions in the Decree.

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Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) Section 1.3 of this bill clarifies that as used in those provisions, “court-ordered admission of a child” includes a child for whom a petition is filed to continue placement after an emergency admission. Section 1.5 of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.

Section 3 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) Section 4 of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) Section 5 of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. Section 6 of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) Section 7 of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. Section 8 of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge.

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 10 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=714>

**Effective July 1, 2009**

**Amends: NRS 432B (numerous sections); NRS 127 (new section); NRS 433B**



# Miscellaneous

## Elder Issues/Ombudsman

**AB176** – Sections 1 and 2 of this bill change the name of the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to the Board of Examiners for Long-Term Care Administrators.

Existing law establishes various penalties the Board may impose as disciplinary action against nursing facility administrators and administrators of a residential facility for groups who commit certain violations. (NRS 654.190) **Section 3 of this bill increases the maximum administrative fine the Board may impose upon such persons from \$5,000 to \$10,000 for each violation. Section 3 also provides that the Board may deny the issuance or renewal of a license and impose any combination of authorized disciplinary actions against such persons for a violation.** Additionally, section 3 revises the manner in which notice of a hearing relating to disciplinary action must be given to a licensee. Furthermore, section 3 establishes the Board's authority to subpoena witnesses and documents.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=369>

**Effective October 1, 2009**

**AB254** – The 2007 Legislature created the Office of Ombudsman of Consumer Affairs for Minorities within the Consumer Affairs Division of the Department of Business and Industry as a temporary position for the 2007-2009 biennium. (Chapter 348, Statutes of Nevada 2007, pp. 1662, 1676) **This bill makes the Ombudsman of Consumer Affairs for Minorities a permanent position within the Office of the Director of the Department.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=508>

**Effective July 1, 2009**

**SB65** – To receive an allotment under 42 U.S.C. § 3058b, federal law requires states to create the position of the State Long-Term Care Ombudsman to carry out certain duties of advocacy and investigation for residents of long-term care facilities. (42 U.S.C. § 3058g) Existing law authorizes the Administrator of the Aging Services Division of the Department of Health and Human Services to appoint advocates for residents of facilities for long-term care and to appoint representatives of the advocates. (NRS 427A.125, 427A.127) Existing law also sets forth the duties of the advocates, including the power to investigate the complaint of a resident of a facility for long-term care. (NRS 427A.135-427A.165) The advocates and representatives currently fulfill the duties established for the State Long-Term Care Ombudsman by federal law, but federal law requires the establishment of the actual office and title of “State Long-Term Care Ombudsman” for the State to receive federal funding. **Section 5 of this bill creates the Office of the State Long-Term Care Ombudsman and allocates the duties previously carried out by the appointed advocates to the Ombudsman.**

Section 6 of this bill replaces the representatives of the advocates who were in the Division and authorizes the appointment of one or more advocates to assist the Ombudsman. Section 6 also authorizes the creation of a program within the Division to train and use volunteer advocates. Sections 7-12 of this bill transfer the duties and indemnities of the formerly appointed “advocate or his representative” to the Ombudsman or advocates working under his direction. Existing law creates the Office of Ombudsman for Aging Persons and sets forth the duties of that office. (NRS 427A.300, 427A.310)

Sections 13 and 14 of this bill abolish the Office of Ombudsman for Aging Persons and create the Office of the Community Advocate for Elder Rights. In addition, **section 14** removes

the requirement to publish a county guide to the resources and services available for aging persons in each county.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=127>

**Effective May 4, 2009**

## **Official State/Observances/Historical**

**AB180** – Existing law designates various emblems of the State of Nevada, including a state tartan, a state artifact and a state fossil. **This bill designates Engine No. 40 of the Nevada Northern Railway as an official state locomotive of the State of Nevada.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=374>

**Effective July 1, 2009**

**AB301** – Existing law sets forth certain days of observance in this State to commemorate certain persons or occasions or to publicize information regarding certain important topics. (NRS 236.018-236.075) **This bill requires the Governor annually to proclaim March 31 to be “Cesar Chavez Day” in the State of Nevada.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=588>

**Effective May 18, 2009**

**SB166** – Existing law establishes various official state emblems, including a state bird, state reptile, state animal, state fish and others. (NRS 235.020-235.130) **This bill establishes the Vivid Dancer Damselfly (*Argia vivida*) as the official state insect.**

This insect was selected through a contest that was open to all fourth grade and Gifted and Talented Education (GATE) classrooms in Nevada to select a state insect because Nevada is one of only eight states in the country that does not have a state insect. The contest was open to public, private, parochial and homeschooled pupils. To participate in the contest, the classes were required to submit a one-page, research-based essay supporting the nomination of an insect found in Nevada, including the pupils’ rationale for why that insect would be a good symbol for the State of Nevada. The 74 classrooms that participated in the contest represented 57 schools in seven counties.

The winners are the fourth grade class taught by Mr. David R. Slater at John R. Beatty Elementary School, which is located on Hidden Palms Parkway in Las Vegas.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=462>

**Effective October 1, 2009**

**SB256** – The grounds of Northern Nevada Adult Mental Health Services include a cemetery that was formerly a part of the Nevada Hospital for Mental Diseases. In 1949, the Legislature required the board of commissioners of the hospital to abolish the use of the cemetery. (Chapter 184, Statutes of Nevada 1949, p. 408) **This bill designates the area of the former cemetery as a historic cemetery. This bill also requires the reinterment of human remains from gravesites found in a certain area outside the designated boundaries of the cemetery to the area inside the historic cemetery.** This bill also provides for the Administrator of the Office of Historic Preservation of the Department of Cultural Affairs, in cooperation with persons with an interest in the matter, to oversee the maintenance and improvement of the cemetery by Northern Nevada Adult Mental Health Services of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

In 1959, a portion of the former cemetery was leased to the City of Sparks. This bill directs the State of Nevada to terminate the lease. Upon termination of the lease, the area covered

by the lease will become a part of the cemetery. Section 2 of this bill repeals the statute that abolished the use of the cemetery.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=697>

**Effective October 1, 2009**

## Conceal and Carry

**AB230** – Existing law authorizes a retired law enforcement officer who is a resident of this State to apply to the sheriff of the county in which he resides for certification to become a qualified retired law enforcement officer. (NRS 202.3678) Such certification confirms that the retired law enforcement officer meets the requirements to carry a concealed firearm under Nevada law and federal law. (NRS 202.350; 18 U.S.C. § 926C(d)) **This bill requires the law enforcement agency from which a law enforcement officer retired to offer the retired law enforcement officer the opportunity to obtain the firearms qualification that is necessary to obtain such certification at least twice per year.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=471>

**Effective October 1, 2009**

## Legislature

**AB231** – The Legislative Commission is authorized to establish fees for registration as a lobbyist. (NRS 218.932) **This bill exempts a veteran who is not compensated for his lobbying activities and who provides proof of his discharge or release from military service under honorable conditions from the requirement to pay any fee established for registration as an uncompensated lobbyist.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=472>

**Effective May 18, 2009**

**AB535** – **Section 1 of this bill provides that reports made to the Legislature or the Legislative Counsel Bureau may be submitted electronically.** Sections 2 and 3 of this bill allow a Legislator to purchase and use letterhead and business cards after leaving office if the letterhead or business card clearly identifies the person as a former Legislator or retired Legislator. Sections 4, 5, 7, 8, 12, 13 and 14 of this bill revise certain statutes concerning a Legislator who does not seek reelection or who is defeated for reelection. **Such a Legislator continues to serve on legislative committees after the general election until the next regular or special session of the Legislature convenes.** Sections 9.5 and 10 of this bill revise the statutes concerning the membership of the Legislative Commission and the Interim Finance Committee to provide that the membership of a Legislator who does not seek reelection or who is defeated for reelection terminates on the day after the general election. Sections 5 and 6 of this bill expand the membership of the Legislative Committee on Public Lands and authorize the Legislative Commission to appoint alternate members. Section 11 of this bill revises the description of the Administrative Division of the Legislative Counsel Bureau to reflect its duties more accurately. Sections 11.2, 11.4 and 11.6 of this bill expand the authority of the Legislative Counsel to represent the Legislature's official interests in various actions and proceedings. Section 13.5 of this bill repeals the prospective expiration of provisions that require the pre-filing of measures proposed by certain nonlegislative requesters and that make various other changes relating to bill draft requests.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1076>

**Effective May 29, 2009, and July 1, 2009**



**SB160 – Section 1 of this bill provides that for any speech or debate in either House of the Legislature, a member of the Senate or Assembly shall not be questioned in any other place. The purpose and effect of section 1 is to implement the constitutional doctrines of separation of powers and legislative privilege and immunity by codifying in statutory form the constitutional right of State Legislators to be protected from having to defend themselves, from being held liable and from being questioned or sanctioned in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity.**

Under case law, the constitutional doctrine of legislative privilege and immunity provides a testimonial privilege and an evidentiary privilege which protect a Legislator from having to testify or disclose documents in administrative or judicial proceedings when such acts would intrude upon, interfere with or pry into the legislative process. (*Gravel v. United States*, 408 U.S. 606, 92 S.Ct. 2614 (1972); *United States v. Rayburn House Office Bldg.*, 497 F.3d 654 (D.C. Cir. 2007)). Section 2 of this bill amends the Nevada statute governing testimonial and evidentiary privileges to confirm that the constitutional doctrine of legislative privilege and immunity provides a testimonial privilege and an evidentiary privilege. (NRS 49.015)

Sections 6, 7.4 and 9 of this bill amend provisions of the Nevada Ethics in Government Law (Ethics Law) to make those provisions comport with the constitutional doctrines of separation of powers and legislative privilege and immunity. (Chapter 281A of NRS) In particular, section 9 amends NRS 281A.420 to clarify that the responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government. However, other provisions of the Ethics Law remain applicable to State Legislators so that, for example, State Legislators will continue to be required to file the same financial disclosure forms as other public officers and the provisions prohibiting misuse of office that are applicable to other public officers will continue to apply to State Legislators with regard to conduct that falls outside the scope of legitimate legislative activity. Section 9 also clarifies that the provisions of NRS 281A.420 concerning disclosure, voting and abstention do not apply to State Legislators or allow the Commission on Ethics to exercise jurisdiction or authority over State Legislators with regard to disclosure, voting and abstention.

On December 22, 2008, the First Judicial District Court in and for Carson City held that the Commission on Ethics could not apply the provisions of NRS 281A.420 concerning disclosure, voting and abstention to State Legislators because under the constitutional doctrines of separation of powers and legislative privilege and immunity, the Legislator's own House is the only governmental entity that may sanction the Legislator for performing legislative actions, like voting, that fall within the sphere of legitimate legislative activity and are an essential part of the legislative function. (*Warren B. Hardy II v. Commission on Ethics*, Nev. First Jud. Dist. Ct. Case No. 08 OC 00381 1B (Dec. 22, 2008)) [Legislative Counsel's Note. The Nevada Supreme Court affirmed the decision of the district court on May 21, 2009. (*Commission on Ethics v. Warren B. Hardy II*, Nev. Sup. Ct. Case No. 53064)]

The decision of the district court was based on the Nevada Supreme Court's pronouncement that "[u]nder the separation of powers doctrine, individual legislators cannot, nor should they, be subject to fines or other penalties for voting in a particular way." (*Guinn v. Legislature*, 119 Nev. 460, at 472 (2003)) The decision of the district court was also based on a long line of cases from the United States Supreme Court which hold that under the constitutional doctrines of separation of powers and legislative privilege and immunity, Federal and State Legislators must be free to represent the interests of their constituents with assurance that they will not later be called to task for that representation by the other branches of government. (*Tenney v. Brandhove*, 341 U.S. 367, 71 S.Ct. 783 (1951); *Powell v. McCormack*, 395 U.S. 486, 89 S.Ct. 1944 (1969); *Gravel v. United States*, 408 U.S. 606, 92 S.Ct. 2614 (1972); *Supreme*

*Court of Virginia v. Consumers Union*, 446 U.S. 719, 100 S.Ct. 1967 (1980)) Given this well established and long-standing precedent, the district court found that the constitutional doctrines of separation of powers and legislative privilege and immunity are intended to protect the independence of individual Legislators by giving them broad freedom of speech, debate, deliberation and action during the legislative process and by shielding them from executive and judicial oversight that realistically threatens to control their conduct as Legislators.

Thus, because of the constitutional doctrines of separation of powers and legislative privilege and immunity, the district court determined that any inquiry into the ethical propriety of legislative actions concerning disclosure, voting and abstention must be conducted by the Legislative Department and cannot be conducted by an administrative agency of the Executive Department, such as the Commission on Ethics. The district court also determined that because each House is given the exclusive constitutional power to determine the rules of its legislative proceedings and to punish its members for improper conduct related to those legislative proceedings, the Standing Rules adopted by each House concerning disclosure, voting and abstention take precedence over NRS 281A.420. Therefore, out of respect for the separation of powers under Section 1 of Article 3 of the Nevada Constitution and out of respect for the exclusive constitutional power of each House to determine its rules and punish its members under Section 6 of Article 4 of the Nevada Constitution, the district court held that the determination of whether a State Legislator has properly followed the Standing Rules concerning disclosure, voting and abstention is a matter reserved exclusively to the Legislator's own House.

Finally, the district court emphasized that its decision applied only to the provisions of NRS 281A.420 concerning disclosure, voting and abstention and that the constitutional doctrines of separation of powers and legislative privilege and immunity do not provide State Legislators with blanket protection from the Nevada Ethics in Government Law. Rather, State Legislators remain subject to the Ethics Law for conduct that falls outside the scope of legitimate legislative activity.

Sections 3.4-5.4 and 7.2-8.23 of this bill clarify the meaning of terms used in the Ethics Law and codify long-standing interpretations of those terms. Additionally, the definitions in sections 4 and 5 ensure that the Ethics Law accurately reflects the constitutional and legal differences between a "State Legislator" and a "member of a local legislative body." The definition of "investigatory panel" in section 8.1 recognizes that when the two-member panel is deciding whether there is just and sufficient cause to refer an ethics complaint to the Commission for a hearing, the panel is performing an investigatory function, not an adjudicatory function. Section 8.2 revises and clarifies the definition of "public officer" in the Ethics Law by employing terminology used in the definition of "public officer" in NRS 281.005 and by including members of boards of trustees of general improvement districts within the meaning of the term "public officer." Sections 3.4, 3.6, 8.23 and 17.5 of this bill define the terms "intentionally," "knowingly," "willful violation" and "willfully" in the Ethics Law to conform with the legal meanings generally ascribed to those terms. A "willful" act is an act done intentionally and knowingly. (*In re Fine*, 116 Nev. 1001 (2000); *Black's Law Dictionary* 1593 (7th ed. 1999) (defining "willful")) A person acts "intentionally" when he acts voluntarily or deliberately, rather than accidentally or inadvertently. (*Batt v. State*, 111 Nev. 1127 (1995); *In re Fine*, 116 Nev. 1001 (2000); *Nevada Service Employees Union v. Orr*, 121 Nev. 675 (2005)) A person acts "knowingly" when he has knowledge of the facts which constitute the act or omission. (NRS 193.017, 624.024; *State v. Rhodig*, 101 Nev. 608 (1985); *Garcia v. Sixth Jud. Dist. Ct.*, 117 Nev. 697 (2001))

Section 5.6 of this bill clarifies that public officers and employees cannot assert common-law privileges and immunities in proceedings under the Ethics Law but may assert constitutional or statutory privileges and immunities in such proceedings. Section 5.8 of this bill moves the existing provisions of NRS 281.236 into the Ethics Law so that those provisions may be enforced by the Commission on Ethics. Under the existing provisions of NRS 281.236, certain regulated

businesses and industries must observe a 1-year “cooling off” period before they may hire a former public officer or employee who had significant involvement in regulating the business or industry. Section 5.8 contains the same substantive provisions as NRS 281.236, except that the requirement to observe the 1-year “cooling off” period is imposed on the former public officer or employee instead of on the regulated business or industry.

Sections 8.25, 8.35 and 8.45 of this bill clarify existing provisions of the Ethics Law which prohibit members of the Commission on Ethics and the Commission’s Executive Director and Counsel from performing certain lobbying activities on behalf of private parties. (NRS 281A.200, 281A.230, 281A.250) Section 8.35 also provides that the Executive Director must have experience in administration, investigations and law.

The Ethics Law imposes civil penalties for certain violations (NRS 281A.480), but it does not contain an express statute of limitations. When a law imposes civil penalties but does not contain an express statute of limitations, it is presumed that the Legislature intended for a generally applicable statute of limitations to apply to proceedings brought under the law. (*DelCostello v. Int’l Bhd. of Teamsters*, 462 U.S. 151, 103 S.Ct. 2281 (1983); *3M Co. v. Browner*, 17 F.3d 1453 (D.C. Cir. 1994); 51 Am. Jur. 2d *Limitation of Actions* § 129 (2000)) Because NRS 11.190 contains a generally applicable 2-year statute of limitations for actions brought upon a statute for a penalty or forfeiture, the 2-year period in NRS 11.190 is presumptively applicable to proceedings brought under the Ethics Law. (*Community Cause v. Boatwright*, 177 Cal. Rptr. 657 (Cal. Ct. App. 1981)) For purposes of clarity and certainty of application, sections 8.55 and 26 of this bill codify the existing 2-year statute of limitations expressly into the Ethics Law. (NRS 281A.280) The Ethics Law places restrictions on certain public officers and employees with regard to representing or counseling a private person for compensation before various agencies. (NRS 281A.410) Section 8.7 of this bill clarifies those restrictions by replacing the terms “member of the executive branch” and “member of the legislative branch” with more specific, descriptive and accurate terms. Section 8.7 also clarifies the methods for filing the disclosure form certain public officers must file if they have represented or counseled a private person for compensation before certain agencies.

The Ethics Law requires public officers to disclose conflicts of interest and to abstain from voting because of certain types of conflicts. (NRS 281A.420) Because public officers must disclose conflicts before determining whether to abstain, section 9.5 of this bill rearranges the order of the existing disclosure and abstention provisions in the statute so that the disclosure provisions come before the abstention provisions. Section 9.5 also changes the abstention requirements which apply to members of certain county and city planning commissions so that those members are subject to the same abstention requirements which apply to other public officers under the statute. Section 9.5 additionally requires the Commission to give appropriate weight and proper deference to the public policy of this State which favors the right of public officers to vote, provided they have properly disclosed all conflicts. Under this public policy, abstention is required only in clear cases where the independence of judgment of a reasonable person in the public officer’s situation would be materially affected by the conflicts. This public policy demands proper disclosures of conflicts but prefers fewer instances of abstention because abstention disrupts the normal course of representative government and deprives the public and the public officer’s constituents of a voice in governmental affairs.

The Ethics Law allows public officers and employees to bid on or enter into contracts with governmental agencies when certain requirements are met, including that the contracting process is controlled by the rules of competitive bidding. (NRS 281A.430)

Section 11 of this bill allows public officers and employees to enter into such contracts in situations where existing law exempts the contracts from the rules of competitive bidding because the contract is an emergency contract or because no responsible bids were received in response to a previous request for bids on the contract. (NRS 332.112, 332.148)

The Ethics Law contains procedures for investigating and adjudicating alleged ethical violations. (NRS 281A.440) Section 12 of this bill: (1) authorizes a public officer or employee who requested an advisory opinion regarding his own conduct to waive certain time limits; (2) provides a public officer or employee with 30 days to file an informational response to an ethics complaint and also provides that no objection or defense is waived by the failure to assert it in the informational response or during the investigatory stage of the proceedings; (3) grants the Executive Director an additional 10 days to complete his investigation of an ethics complaint and to present a recommendation regarding just and sufficient cause to the investigatory panel; and (4) grants the Commission a total of 60 days to hold a hearing and render an opinion if the investigatory panel finds just and sufficient cause, unless the public officer or employee waives the time limit.

The Ethics Law requires public officers to file a form acknowledging that they have received, read and understand the statutory ethical standards. (NRS 281A.500) Section 14 of this bill requires public officers to file the form at certain times while holding office and to acknowledge in the form that they have a responsibility to inform themselves of any amendments to the statutory ethical standards. Section 14 provides methods for public officers to obtain hard copies of the statutory ethical standards and also provides for Internet access to the statutory ethical standards. Section 14 additionally clarifies the methods for filing the form and provides that the willful refusal to execute and file the form constitutes a willful violation of the Ethics Law.

**Finally, when the Nevada Constitution specifies a particular method for removing a public officer from office for misconduct, that constitutional method is exclusive, and the public officer may not be removed from office through statutory removal proceedings.**

Because certain elected and appointed state officers may be removed from office only through impeachment pursuant to Article 7 of the Nevada Constitution, they may not be removed from office through statutory removal proceedings. (*Robison v. First Jud. Dist. Ct.*, 73 Nev. 169 (1957)) Similarly, because State Legislators may be removed from office only through expulsion by their own House pursuant to Section 6 of Article 4 of the Nevada Constitution, **they may not be removed from office through impeachment or statutory removal proceedings.** (*Hiss v. Bartlett*, 69 Mass. 468 (1855); *State ex rel. Martin v. Gilmore*, 20 Kan. 551 (1878); *In re Speakership*, 25 P. 707 (Colo. 1891); *State ex rel. Haviland v. Beadle*, 111 P. 720 (Mont. 1910); *State ex rel. Ezzell v. Shumate*, 113 S.W.2d 381 (Tenn. 1938); *State ex rel. Danforth v. Hickey*, 475 S.W.2d 617 (Mo. 1972)) Sections 13 and 18-24 of this bill conform existing statutory law with the constitutional provisions governing impeachment, expulsion and removal from office.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=438>

**Effective January 1, 2009, and May 28, 2009**

**SB161** – Existing law establishes the Nevada Youth Legislative Issues Forum, consisting of 21 members who are enrolled in grades 9-12 in public schools or otherwise eligible for enrollment in public schools but enrolled in a homeschool or private school. (NRS 385.515, 385.525) **Section 2 of this bill: (1) changes the name of the Nevada Youth Legislative Issues Forum to the Nevada Youth Legislature; (2) changes the date for appointment of the members from June 30 to March 30; (3) changes the commencement date of members' terms from July 1 to June 1; and (4) provides an alternative method for appointing a pupil to the Nevada Youth Legislature if a Senator does not make an appointment by March 30.** (NRS 385.515)

Section 3 of this bill: (1) expands the eligibility requirements to authorize a pupil to apply not only to the Senator of the senatorial district in which the pupil resides, but also to the Senator of the senatorial district in which the pupil is enrolled in a public school or a private school or, if he is homeschooled, otherwise eligible to be enrolled in a public school; (2) authorizes only

pupils who are enrolled in grades 10-12 in public schools or private schools or, if they are homeschooled, otherwise eligible for such enrollment in public schools to apply for appointment to the Nevada Youth Legislature; (3) prohibits a member from being appointed by a relative; and (4) clarifies that pupils who wish to be appointed or reappointed to the Nevada Youth Legislature may submit only one application to an appropriate appointing authority in a calendar year. (NRS 385.525)

Section 5 of this bill revises the eligibility requirements for the Chair of the Nevada Youth Legislature. (NRS 385.545) Section 6 of this bill: (1) authorizes, rather than requires, the Nevada Youth Legislature to teleconference or videoconference its public hearings; and (2) requires each member of the Nevada Youth Legislature to conduct at least one meeting during his term to afford the youth of this State an opportunity to discuss issues of importance to the youth in this State. (NRS 385.555)

Section 7 of this bill revises the date by which the Nevada Youth Legislature must submit to the Legislative Counsel its request for the drafting of one legislative measure. (NRS 385.565) Section 10 of this bill extends by 2 years the date by which the money appropriated to the Nevada Youth Legislature during the 2007 Legislative Session will revert to the State General Fund.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=440>

**Effective May 12, 2009, and July 1, 2009**

## **Rural/Government/Regulations**

**AB54** – This bill authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) **to establish: (1) a program to provide financial assistance to persons to connect to a public water or sewer system under certain circumstances; and (2) a program to provide financial assistance to owners of public or private property to make such property resistant to flood damage.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=130>

**Effective, May 29, 2009**

**AB96** – Existing law provides that to be eligible for a Governor Guinn Millennium Scholarship a student must be enrolled in at least 6 semester credit hours in a community college or 12 semester credit hours in another eligible institution. (NRS 396.930) The law does not specify whether enrollment in more than one eligible institution affects a student's eligibility for a Scholarship or how to administer the Scholarship for such a student.

**This bill clarifies that a student who is enrolled in more than one eligible institution is eligible for a Millennium Scholarship if the student meets certain requirements, and that the Scholarship must be administered by the eligible institution at which the student is enrolled in a program of study leading to a recognized degree or certificate.** This bill also directs the Board of Regents of the University of Nevada to establish procedures and guidelines for the administration of Millennium Scholarships for students who are enrolled in more than one eligible institution. (NRS 396.930, 396.934)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=210>

**Effective July 1, 2009**



**AB97 – This bill requires the Committee on Local Government Finance to adopt regulations to establish procedures for transferring a function from one local government to another local government.**

This bill also requires the Committee on Local Government Finance, in consultation with the Director of the Department of Administration, to adopt regulations to establish procedures for transferring a function from a local government to a state agency or from a state agency to a local government.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=211>

**Effective May 19, 2009**

**AB192 – Existing law authorizes and sets forth the requirements for local governments to enter into performance contracts for the purchase and installation of operating costsavings measures to reduce costs related to such matters as energy, water and the disposal of waste, and related labor costs. (NRS 332.300-332.440) Existing law sets forth the procedures by which a local government will compile a list of the qualified service companies that it determines have a record of established projects or have demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures. Under existing law, the local government must solicit proposals for a performance contract from such companies. (NRS 332.350, 332.360) Sections 2-5, 11 and 12 of this bill provide that a company must apply to the local government, meet certain qualifications and be preapproved by a local government before it may submit a proposal for a performance contract.**

Section 6 of this bill requires that performance contracts for operating costsavings measures identify the specific dollar amount and units or percentages of consumption that will be eliminated or avoided as a result of the operating costsavings measures.

Section 6.5 of this bill requires a local government that enters into a performance contract for operating cost-savings measures to submit a report annually to the Legislature or, when the Legislature is not in session, the Interim Finance Committee.

Section 8 of this bill amends the definition of “building” to provide that performance contracts apply only to existing buildings. (NRS 332.310)

Section 9 of this bill adds ground source systems of heating and cooling to the list of operating cost-savings measures that may be included in a performance contract. (NRS 332.330)

Section 13 of this bill eliminates the option for a performance contract to be structured as a shared-savings contract. (NRS 332.370)

Section 14 of this bill provides that the bonding requirements set forth in the provisions of chapter 339 of NRS apply to performance contracts that exceed \$100,000. (NRS 332.390)

Existing law authorizes a local government to reinvest any savings realized under a performance contract into operating cost-savings measures. (NRS 332.410) Section 15 of this bill requires that such reinvestment comply with the provisions of NRS 332.300-332.440 and sections 2-6.5 of this bill.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=396>

**Effective July 1, 2009**

**AB225 – Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) Section 1 of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees, except in counties for which a nonprofit corporation has been granted an exclusive franchise to provide ambulance service. Section 1 also requires that, in a county whose**

population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make annually to not more than 1,000 transports, with an exception for emergency situations in which a private ambulance is not available. Section 2 of this bill, with respect to a county that has already adopted an ordinance prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. Section 3 of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit a quarterly report to the Legislature and the Legislative Committee on Health Care regarding the number of yearly transports made by the fire department and all ambulance companies. The report must include, without limitation, the fees charged for those transports, whether or not the persons transported had health insurance and what medical facilities the persons were transported to and from.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=458>

**Effective July 1, 2009**

**AB329** – On November 5, 2002, the voters in White Pine County approved County Question No. 10, concerning the operation and maintenance of a county swimming pool facility. During the 2003 Legislative Session, a one-quarter of 1 percent sales tax was imposed to support the operation and maintenance of a county swimming pool. **Sections 1 and 2 of this bill amend NRS to provide that the money collected from the tax may be used for the operation and maintenance of a county swimming pool and recreational facility.** (NRS 377A.020, 377A.030) Section 3 of this bill authorizes the Board of County Commissioners to use the money in the fund for the county swimming pool to include the operation and maintenance of a county recreational facility. (NRS 377A.062)

This bill further clarifies that no other approval by the voters is required for the imposition of the tax because on November 5, 2002, voters in White Pine County approved County Question No. 10, concerning the imposition of a sales and use tax for the operation and maintenance of a county swimming pool facility.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=653>

**Effective July 1, 2009**

**AB415** – Existing law grants to the Nevada Legislature the power to increase, diminish, consolidate or abolish the offices of county clerk, county recorder, auditor, sheriff, district attorney and public administrator. (Nev. Const., Art. 4, § 32) As interpreted by the Nevada Supreme Court, Nev. Const., Art. 4, § 32, does not set forth an exhaustive list of all the county offices that the Legislature may increase, diminish, consolidate or abolish but, instead, clarifies that although the offices of county clerk, county recorder, auditor, sheriff, district attorney and public administrator are constitutional offices, the Legislature may nonetheless increase, diminish, consolidate or abolish those offices. (*Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 764-66 (2001)) The Court has further determined that the Legislature may either exercise or delegate the authority set forth in Nev. Const., Art. 4, § 32. (*Cawley v. Pershing County*, 50 Nev. 237, 247 (1927))

**This bill, in counties whose population is less than 40,000 (currently counties other than Clark, Douglas, Elko and Washoe Counties and Carson City), authorizes the governing body of the county, after making certain findings and after approval of the residents of the county pursuant to an advisory ballot question (NRS 293.482), to combine or separate any county offices, except for constitutional county offices that are not listed in Nev. Const., Art. 4, § 32 thus, this bill does not authorize the governing body of a county to combine or separate such offices as county commissioner or district judge. (Nev. Const., Art. 4, § 26, Art. 6, § 5)**

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=803>

**Effective July 1, 2009**

**AB463** – Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. **Section 1 requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant.** Section 1 also requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. Section 1 also requires that contracts with temporary employment services be awarded by open competitive bidding. Section 1 further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are federally funded.

Section 2.5 of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. Section 2.7 of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=892>

**Effective June 1, 2009**

**AB510** – **Section 2 of this bill requires that certain matters be decided by the entire Public Utilities Commission of Nevada and allows the Commission to designate hearing officers as acting commissioners in certain circumstances.**

Section 3 of this bill requires the Commission to appoint an Executive Director and specifies the qualifications and duties of the Executive Director. Section 1 of this bill revises provisions to be consistent with this new requirement.

Section 4 of this bill revises the dates by which electric utilities must file general rate applications.

Section 5 of this bill provides that the provisions of chapter 704 of NRS do not prohibit the Commission from allowing an electric utility to provide reduced rates to low-income customers.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=986>

**Effective October 1, 2009**

**SB59** – Under existing law, a board of county commissioners in a county whose population is less than 400,000 (currently counties other than Clark County) is authorized to impose a surcharge to enhance or, in smaller counties, to enhance and improve the telephone system for reporting an emergency in the county. A board of county commissioners in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) is not authorized to impose the surcharge unless the board has first adopted a 5-year master plan for the emergency telephone system, which is required to address estimates of costs and proposed sources of funding. (NRS 244A.7643) Section 1 of this bill defines “telephone system” for the purposes of this authority. (NRS 244A.7641)

**Section 2 of this bill makes the requirement to adopt a 5-year master plan applicable on or after July 1, 2010, to a county whose population is 100,000 or more but less than 400,000 (currently Washoe County). Section 2 also requires, for the duration of the imposition of a surcharge, an annual review and, if necessary, an update of the master plan in all counties in which such a plan was adopted.**

Under existing law, the proceeds of such a surcharge are placed in a special revenue fund of the county. If the unencumbered balance of the proceeds of the surcharge in the fund at the end of any fiscal year exceeds \$500,000, the board of county commissioners is required to decrease

the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed \$500,000. (NRS 244A.7645)

Section 3 of this bill increases the threshold amount that triggers a decrease in the surcharge in the fund of a county whose population is 40,000 or more but less than 400,000 (currently Carson City and Elko, Douglas and Washoe Counties) to \$1,000,000. Section 3 also expands the purposes for which a County whose population is 40,000 or more but less than 400,000 (currently Carson City and Elko, Douglas and Washoe Counties) may use the proceeds of the surcharge to enhance the emergency telephone system.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=120>

**Effective May 22, 2009**

**SB144 – This bill sets forth various provisions governing the activities of public safety bomb squads and bomb technicians. Section 7.5 of this bill provides that the provisions of the bill apply in each county in this State:** (1) in which there is a public safety bomb squad; and (2) in the absence of a memorandum of understanding setting forth the responsibilities of the public safety bomb squad. Section 7.5 also provides that in a county in which there is not a public safety bomb squad, the sheriff of the county or his designee is responsible for carrying out those duties of a public safety bomb squad which he determines are appropriate in that county.

Section 4 of this bill defines a “bomb technician” as a person who is certified as a bomb technician by the Federal Bureau of Investigation and is an active member of a public safety bomb squad. Section 6 of this bill defines a “public safety bomb squad” as a group which consists of members who are bomb technicians and which is accredited by the Federal Bureau of Investigation. Section 8 of this bill sets forth the primary responsibilities of a public safety bomb squad.

Section 9 of this bill specifies that each public safety bomb squad is responsible for all render-safe procedures for all actual or suspected improvised explosive devices to which the public safety bomb squad responds. Section 9 also imposes duties upon a public safety bomb squad, including the duty to provide maximum safety for the public in accordance with certain national guidelines.

Section 10 of this bill requires each law enforcement agency in this State to establish a plan to ensure the timely notification of the appropriate public safety bomb squad of any actual or suspected improvised explosive device. Section 7 of this bill specifies that a suspected improvised explosive device includes any item that, based on training, experience or circumstances, would cause a reasonable person to believe that the item may pose an immediate threat of an explosive or destructive nature.

Section 11 of this bill provides that each bomb squad commander is responsible for the activities of the public safety bomb squad, requires the bomb squad commander to establish policies and tactical plans consistent with the *National Guidelines for Bomb Technicians* and provides that the bomb squad commander retains final authority concerning the render-safe procedures for incidents involving explosives to which the public safety bomb squad responds.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=384>

**Effective October 1, 2009**

**SB147 – Chapter 414 of NRS authorizes the Governor to prepare a comprehensive state emergency management plan and authorizes political subdivisions of this State to establish local organizations for emergency management in accordance with the state emergency management plan. (NRS 414.060, 414.090) Section 4 of this bill requires broadcasters in this State to work in cooperation with the Division of Emergency Management of the Department of Public**



**Safety and the Nevada Broadcasters Association to develop comprehensive, coordinated plans for preparing for and responding appropriately to an emergency or disaster.**

Section 5 of this bill authorizes the Nevada Broadcasters Association or its successor organization, the Nevada State Cable Telecommunications Association or its successor organization, any member of the Nevada State Cable Telecommunications Association or its successor organization and any other provider of emergency broadcasts, including, without limitation, a provider who uses emerging technologies, to establish a program for training and certifying first response broadcasters who, with certain restrictions, must be given access to an area affected by an emergency or disaster for the purpose of restoring, repairing or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce and transmit essential emergency- or disaster-related public information programming. Each program established pursuant to section 5 must be consistent with federal law and guidelines.

Existing law provides the Governor with broad authority to seize materials and facilities for emergency management without regard to the limitations of any existing law. (NRS 414.070) Sections 7 and 9 of this bill provide that this grant of authority to the Governor and the authority granted to the executive heads or governing bodies of the political subdivisions of this State must not be construed to allow the confiscation of equipment, supplies or facilities of a broadcaster or first response broadcaster if the equipment, supplies or facilities will be used to enable the broadcast of essential emergency- or disaster-related public information programming in an area affected by an emergency or disaster.

Section 6 of this bill provides that, to the extent practicable and consistent with not endangering public safety, broadcasters and first response broadcasters must be given priority for the distribution of fuel, food, water and any other equipment, supplies or facilities over all persons other than persons who provide essential emergency services, health care and utility restoration services.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=393>

**Effective May 22, 2009**

**SB186 – Section 4 of this bill requires the district board of health in certain counties to adopt regulations for the issuance of permits to operate facilities for the management of waste tires.**

Section 4 authorizes the State Environmental Commission to adopt similar regulations for other counties. If a permit for the operation of a facility for the management of waste tires is issued, the district board of health or the State Environmental Commission must adopt regulations prohibiting the disposal of waste tires in any municipal solid waste landfill in the health district or county in which the facility is operated.

Section 5 of this bill prohibits a person from operating a facility for the management of waste tires unless the operator holds a permit to operate the facility and complies with the terms and conditions of the permit. A person who operates a facility in violation of the provisions of section 5 is guilty of a misdemeanor and, in addition, is subject to civil penalties and injunctive relief. (NRS 444.600)

Existing law prohibits the disposal of used or waste motor vehicle tires other than disposal at a site, landfill or incinerator which has been issued a permit by the Division of Environmental Protection of the State Department of Conservation and Natural Resources or a district board of health. (NRS 444.583) Section 6 of this bill prohibits the disposal of waste tires generated in a health district or county in which a facility for the management of waste tires has been issued a permit at any municipal solid waste landfill in the State. A person who violates section 6 is guilty of a misdemeanor punishable by a fine of not less than \$100 per violation and is also subject to civil penalties and injunctive relief. (NRS 444.600, 444.635) Section 6 provides



exceptions for the inadvertent or unintentional disposal of a waste tire in a municipal solid waste landfill or if the unavailability of a facility for the management of waste tires makes compliance impracticable.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=527>

**Effective May 28, 2009, and October 1, 2009**

**SB304** – Existing law requires physicians and persons who attend to pregnant women to conduct a test for syphilis on pregnant women during the third trimester of pregnancy. (NRS 442.010)

**Section 1 of this bill requires an additional test for syphilis during the first trimester of pregnancy.**

The State Board of Health is required to regulate certain medical laboratories and may adopt regulations concerning those laboratories. (Chapter 652 of NRS) Federal laws and regulations relating to medical laboratories provide three categories of laboratory tests: (1) waived tests; (2) tests of moderate complexity; and (3) tests of high complexity. (42 C.F.R. § 493.5) Existing state law provides that regulations adopted by the Board may not be more stringent than the federal regulations unless the regulations relate to waived tests or the qualifications and duties of the personnel of a medical laboratory. (NRS 652.123) Section 3 of this bill provides that regulations relating to tests for the detection of the human immunodeficiency virus, regardless of whether it is a waived test, may not be more stringent than federal regulations. Section 2 of this bill requires a laboratory which conducts a test for the detection of the human immunodeficiency virus that is classified as a waived test to: (1) conduct the test in accordance with the quality assurance guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services; and (2) comply with certain reporting requirements.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=867>

**Effective July 1, 2009**

## **Appropriations/Budget**

**AB543** - Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per \$100 of the assessed valuation of the county. (NRS 354.59815) **Section 1 of this bill requires the deposit into the State General Fund of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).**

Existing law authorizes a board of county commissioners, after receiving the approval of the voters, to impose a supplemental governmental services tax of 1 cent on each \$1 valuation of a vehicle. (NRS 371.045) Section 4 of this bill authorizes the board of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to impose such a tax without voter approval and expands the purposes for which such a county may expend the proceeds thereof. Section 5 of this bill expands the purposes for which a county whose population is 400,000 or more (currently Clark County) may expend the proceeds of such a tax.

Section 8 of this bill requires the deposit into the State General Fund of the portion of the property taxes levied for the next 2 fiscal years for operating purposes by Clark and Washoe Counties at the rate of 4 cents per \$100 of assessed valuation.

Section 9 of this bill requires the transfer to the general fund for Clark County of certain proceeds for the next 2 fiscal years of taxes imposed in the County on revenues from the rental of transient lodging, on the privilege of new residential, commercial, industrial and other development, and on the privilege of operating a vehicle on the public streets, roads and highways.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1099>

**Effective July 1, 2009**

**AB552** – Existing law requires the State Controller to transfer 0.75 percent of certain local sales and use taxes collected during the preceding month in each county and from out-of-state businesses to the appropriate account in the State General Fund as compensation to the State for the costs of collecting these taxes. (NRS 374.785) **This bill increases the compensation rate for local sales and use taxes, other than the Local School Support Tax, to 1.75 percent.**

Existing law provides that the collection allowance applicable to taxes on intoxicating liquor, cigarettes and other products made from tobacco, and sales and use taxes will increase from 0.25 percent to 0.5 percent on July 1, 2009. (Chapter 4, Statutes of Nevada 2008, 25th Special Session, pp. 18-20 and 23) Section 18 of this bill repeals the provision effecting this change, thereby maintaining the collection allowance at the rate of 0.25 percent.

Existing law requires the imposition of certain taxes on revenue from the rental of transient lodging in each county and incorporated city in this State, and the payment of all or part of the proceeds of those taxes to the State. (§§ 3, 4 and 6 of I.P. 1; NRS 244.3352, 244.3354, 268.096, 268.0962) Sections 4 and 17 of this bill require the payment of those proceeds to the State on or before the last day of the month immediately following the month for which those proceeds are collected.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1118>  
**Effective June 1, 2009, July 1, 2009, and October 1, 2009**

**AB563 – An Act relating to education; ensuring sufficient funding for K-12 public education for the 2009-2011 biennium;** apportioning the State Distributive School Account in the State General Fund for the 2009-2011 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; authorizing temporarily the board of trustees of a school district to use money raised through its general obligations for the purchase of equipment for the transportation of pupils; revising provisions governing local funds available for certain school districts for the 2009-2011 biennium; and providing other matters properly relating thereto.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1157>  
**Effective June 1, 2009, and July 1, 2010**

**SB245** – Nevada has enacted the County Motor Vehicle Fuel Tax Law which, in part, authorizes certain counties to create regional transportation commissions and impose certain taxes on fuel. (Chapter 373 of NRS) **Sections 2-41 and 64 of this bill reorganize the provisions relating to regional transportation commissions into chapter 277 of NRS to be known as the Regional Transportation Commission Act.**

Sections 17 and 31 of this bill authorize the regional transportation commission in a county with a population of 400,000 or more (currently Clark County) to construct, install and maintain vending stands in a building, terminal or parking facility owned, operated or leased by the commission. Such vending stands may provide any approved articles, food or beverages to passengers of public mass transportation within the county.

Sections 15 and 28 of this bill authorize regional transportation commissions, under certain circumstances, to place street banners along public highways and within rights-of-way and public easements. Fees collected for placing street banners must be given to the governmental entities that own or control the public easements or rights-of-way where the street banners are placed, less an administrative fee given to the commissions to fund road repair and maintenance.

Section 34 of this bill authorizes a regional transportation commission to construct, modify, operate and maintain certain electrical and communications systems. Section 38 of this bill authorizes a regional transportation commission that budgets \$1,000,000 or more in a fiscal year for the purchase of fuel to enter into a fuel hedge contract under certain circumstances.

Section 55 of this bill requires the governing body of each city that participates in a regional transportation commission to approve the dissolution of the commission, in addition to the governing body of the county. (NRS 373.120)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=683>

**Effective July 1, 2009**

**SB340** – Existing law establishes the Fund for a Healthy Nevada in the State Treasury, into which the State Treasurer is required to deposit: (1) fifty percent of all money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products; and (2) fifty percent of all money recovered by the State from a judgment in a civil action against a manufacturer of tobacco products. (NRS 439.620) Existing law requires the Department of Health and Human Services to allocate, by contract or grant, for expenditure not more than 15 percent of available revenues from the Fund for a Healthy Nevada for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. (NRS 439.630)

**This bill requires that the money be allocated for programs that are consistent with the guidelines of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco.** This bill further requires that the money be allocated: (1) to the district board of health in each county whose population is 100,000 or more (currently Clark and Washoe Counties) for expenditure for such programs in the respective county; (2) for such programs in counties whose population is less than 100,000 (all counties other than Clark and Washoe Counties); and (3) for evaluations, statewide tobacco cessation programs and other statewide services deemed necessary by the Health Division of the Department of Health and Human Services and district boards of health. This bill also removes the requirement that the Department or the Grants Management Advisory Committee conduct public hearings regarding existing or proposed programs that reduce or prevent the use of tobacco.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=945>

**Effective July 1, 2009**

**SB408** – Existing law authorizes the payment of various benefits to members of the Nevada National Guard from the Patriot Relief Account in the State General Fund. (NRS 412.1435) **This bill authorizes payment from the Account of \$100 to a member of the Nevada National Guard who: (1) returns from deployment in a combat zone; (2) was on active service for 45 days or more in full-time National Guard duty; and (3) not more than 90 days after returning from deployment in the combat zone, attends a course on reintegration into the community with his spouse, an adult member of his immediate family or an adult with whom he cohabits.**

This bill also provides that the interest and income on any unexpended appropriations made to the Patriot Relief Account must be credited to the Account.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1077>

**Effective July 1, 2009**

**SB431** – An act relating to state financial administration; **authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the fiscal years commencing on July 1, 2009, and ending on June 30, 2010, and beginning on July 1, 2010, and ending on June 30, 2011;** authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1155>

**Effective June 1, 2009, and July 1, 2009**

## Central Repository

**SB28 – Section 2 of this bill deletes the requirement that a dentist who makes a dental examination of an unidentified dead body forward the record of the dental examination to the Investigation Division and the Central Repository and instead requires the dentist to forward the record to the coroner, who is required to enter that information into the computer for the National Crime Information Center.** Section 2 also deletes the requirement that a sheriff, chief of police or other law enforcement agency transmit to the Investigation Division and to the Central Repository certain information concerning a person missing under suspicious circumstances.

In addition, section 2 deletes the requirements that the Investigation Division and the Central Repository maintain records to assist in the identification of dead bodies and provide such records to the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety upon request.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=55>

**Effective May 4, 2009**

## Schools

**AB100 –** The Deputy Superintendent for Administrative and Fiscal Services in the Department of Education investigates, inspects and reports on the funds and accounts of school districts. (NRS 385.315) **Section 1 of this bill requires the Deputy Superintendent to perform similar duties for the funds and accounts of charter schools and university schools for profoundly gifted pupils.**

The governing body of a charter school is required to appoint a trustee upon closure of the school. (NRS 386.536) Section 2 of this bill provides that the trustee appointed by the governing body is subject to the approval of the sponsor and requires the sponsor to make the appointment if the governing body is not able to do so. **Section 2 also provides that if the sponsor of a charter school provides financial compensation to the administrator or person appointed by the governing body, the sponsor may receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation for a period not to exceed 6 months.**

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) Section 3 of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists, the charter school shall submit to an annual performance audit.

Existing law provides that upon the request of a parent or legal guardian of a pupil enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class, extracurricular activity and sports within the school district under certain circumstances. Section 4 of this bill amends existing law to provide for such participation in the school district in which the pupil resides rather than the school district in which the charter school is located. (NRS 386.560)

The sponsor of a charter school may request, upon completion of each school year, reimbursement from the governing body of the school for the administrative costs associated with sponsorship. The total amount of such administrative costs must not exceed a specified percentage of the total amount of money apportioned to the charter school during the year. (NRS 386.570) Section 5 of this bill revises the schedule of payments for reimbursement of administrative costs from yearly to quarterly and authorizes a charter school to apply for a delay in the payment of a quarterly reimbursement if a financial hardship exists. Section 5 also provides that to determine the maximum amount of administrative



costs, the total amount apportioned to the charter school during the year must be adjusted by the final computation of apportionment for the school.

Sections 6 and 9 of this bill revise provisions governing the annual reports of charter schools and school districts. (NRS 386.600, 387.303) The Department of Education is required to develop a formula for determining

the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) Section 8 of this bill requires the development of such a formula and minimum expenditures for charter schools.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) Section 7 of this bill requires an annual report to be made by the Department for each charter school sponsored by the State Board.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=215>

**Effective July 1, 2009**

**AB191** – Existing law requires each school to conduct physical examinations of pupils in certain grades to determine if a child has scoliosis, a visual or auditory problem or a gross physical defect, and to conduct examinations of the height and weight of a representative sample of pupils in certain grades. (NRS 392.420) The requirement for examinations of the height and weight of a representative sample of pupils in certain grades is scheduled to expire on June 30, 2010.

(Chapter 414, Statutes of Nevada 2007, p. 1873) **Section 2 of this bill extends the prospective expiration of the requirement that each school conduct examinations of the height and weight of a representative sample of pupils to June 30, 2015. Section 1 of this bill revises the grades in which the examinations of the height and weight of a representative sample of pupils are conducted to require each school district to conduct and report on the examinations for grades 4, 7 and 10 and authorizes a school district to conduct the examinations in other grade levels.** (NRS 392.420)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=395>

**Effective July 1, 2009**

**SB77** – This bill provides for the establishment of programs for teen mentoring in public high schools in this State. **Specifically, this bill: (1) authorizes the board of trustees of each school district to establish a policy for a program of teen mentoring in the public high schools within the school district; (2) sets forth certain provisions that the policy for teen mentoring must include; (3) authorizes the principal of each public high school to establish such a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees; (4) authorizes each board of trustees and public high school to accept gifts, grants and donations to carry out a program of teen mentoring; and (5) specifies that the provisions of this bill do not prevent a public high school from continuing to provide any similar program of teen mentoring that exists on the effective date of this bill.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=158>

**Effective May 22, 2009**

**SB209** – Existing law creates the Governor Guinn Millennium Scholarship Program and prescribes the eligibility requirements for the Millennium Scholarship, including a requirement that a student must have graduated from a public or private high school in this State not more than 6 years before he applies for the Millennium Scholarship. Existing law also authorizes the Board of Regents of the University of Nevada to establish criteria with respect to certain students who have been on active duty serving in the Armed Forces of the United States to exempt such



students from the 6-year limitation on applications for the Millennium Scholarship. (NRS 396.926, 396.930) **This bill requires the Board of Regents to establish criteria with respect to students who actively served or participated in a charitable, religious or public service assignment or mission to exempt such students from the 6-year limitation on applications for the Millennium Scholarship.** The criteria must provide for the award of Millennium Scholarships to those students who qualify for the exemption and who otherwise satisfy the eligibility criteria to the extent that money is available after all other obligations for the award of Millennium Scholarships for the current school year have been satisfied.  
<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=593>  
**Effective July 1, 2009**

## License Plates

**AB29** - Existing law creates the Account for License Plates for the Promotion of Agriculture Within This State and authorizes the provision of grants from the Account to other public agencies to promote agriculture within Nevada. (NRS 561.411) **This bill authorizes the Director of the State Department of Agriculture to provide grants from the Account to nonprofit organizations for that purpose.**  
<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=92>  
**Effective May 18, 2009**

**AB172** – Under existing law, certain charitable organizations which receive additional fees from the issuance of special license plates during a fiscal year are required to file with the Commission on Special License Plates a balance sheet and recent bank statement on or before September 1 following the end of the fiscal year. (NRS 482.38277) **Section 1 of this bill requires these organizations to file additional information with the Commission and requires this additional information to be filed with the Department also. Section 3 of this bill makes these additional information requirements subject to the existing law providing that if a charitable organization fails to comply with the requirements, the Department of Motor Vehicles may, after notice and opportunity for a hearing, suspend the collection of additional fees on behalf of the organization and the production of the organization’s special license plate.** (NRS 482.38279)  
<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=363>  
**Effective July 1, 2009**

**SB139** – This bill entitles qualified persons to be issued license plates specially designed by the Department with a gold star to indicate that the recipient is a family member of a person killed in the line of duty while on active duty in the Armed Forces of the United States. **This bill excepts these special license plates from: (1) the provisions that require a minimum number of applications for the plates; (2) the requirement that the Commission approve or disapprove the plates; and (3) the limit on the number of separate designs of special license plates that may be issued by the Department at any one time.** (NRS 482.3765, 482.377, 482.3775, 482.378)  
<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=351>  
**Effective October 1, 2009**

## PERS

**SB174** – Under existing law, a volunteer fire department may choose, by the joint application of a majority of its members, to participate in the Public Employees’ Retirement System. If a volunteer fire department chooses to participate in the System, all members of the department automatically become participants in the System. (NRS 286.367)

Also under existing law, with certain limited exceptions, a retired public employee who would otherwise be receiving retirement benefits from the System but who accepts employment or an independent contract with a public employer is disqualified from receiving retirement benefits from the System if that employment or contract is in a position that is eligible for the System. (NRS 286.520) Such positions include volunteer firefighters.

**This bill exempts volunteers of a fire department from the preceding disqualification so that a retired public employee may volunteer with a fire department while continuing to receive retirement benefits from the System.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=493>

**Effective July 1, 2009**

## Discrimination

SB207

### Civil District Court

- SB 207 Public Accommodation Cause of Action
  - State law protection from discrimination based on race, color, religion, national origin or disability in places of public accommodation expanded to include sexual orientation



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**Notes:** Sexual orientation is defined as having or being perceived as having an orientation for heterosexuality, homosexuality and bisexuality. A person who believes he/she has been discriminated against based upon sexual orientation in places of public accommodation may file a complaint with the Nevada Equal Rights Commission.

Under existing law, Nevada has declared as its public policy the right of all people to have access to places of public accommodation without discrimination based on race, religious creed, color, age, sex, disability, sexual orientation, national origin or ancestry. (NRS 233.010) Existing law makes it unlawful for places of public accommodation to discriminate against a person based on race, color, religion, national origin or disability. (NRS 651.070) Section 2 of this bill provides the same protection from discrimination based on sexual orientation in places of public accommodation.

Existing law authorizes the Nevada Equal Rights Commission to investigate cases of discrimination in places of public accommodation and authorizes a person who believes he has been discriminated against based on race, color, religion, national origin or disability to file a complaint with the Commission. (NRS 233.150, 651.110) Section 3 of this bill authorizes a person who believes he has been discriminated against based on sexual orientation to file a complaint with the Commission.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=591>

**Effective October 1, 2009**

**Amends: NRS 651.050; 651.070; 651.110**

# Real Property

## Appraisal

**AB287** – Section 4 of this bill **prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances.** Sections 1, 2, 24 and 27 of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section 25 of this bill revises **provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.**

Sections 5-22 and 26 of this bill provide for the **registration and regulation of appraisal management companies.**

Section 23 of this bill revises the requirements for continuing education for appraisers.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=567>

**Effective May 21, 2009, July 1, 2009, and January 1, 2010**

## Common Interest Communities

**AB129** – Section 1 of this bill: **(1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility;** and (2) provides that the **governing documents of associations of common-interest communities must be consistent and not conflict with the tariffs, rules and standards of a public utility.**

Section 2 of this bill prohibits an association of any common-interest community from **restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles** under certain circumstances. (NRS 116.350)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=284>

**Effective October 1, 2009**

**AB204** – Existing law provides that, not less than 30 days or more than 60 days before the beginning of the fiscal year of a unit owners' association of a common-interest community, the executive board of the association must provide each unit's owner with certain information pertaining to the budget of the association. (NRS 116.31151) Section 1 **of this bill requires the executive board to also make available to each unit's owner information pertaining to a policy established by the association for the collection of any fees, fines, assessments or costs imposed against a unit's owner, including the unit's owner's responsibility to pay such fees, fines, assessments or costs and the rights of the association to recover the fees, fines, assessments or costs if the unit's owner does not pay them.**

Under existing law, a unit-owners' association of a common-interest community has priority over certain other creditors with respect to a lien on a unit for any construction penalty imposed against the unit's owner, any assessment levied against the unit or certain fines imposed against the unit's owner. Such a lien is also prior to a first security interest on the unit recorded before the assessments became delinquent to the extent of the assessments for common expenses based on the periodic budget adopted by the association which would have become due in the absence of acceleration during the 6 months preceding an action to enforce the lien. (NRS 116.3116) Section 2 of this bill changes the 6-month threshold for super priority of a lien for an association to 9 months, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for

the lien. If such federal regulations require a shorter period, the period must be determined in accordance with the federal regulations, except that the period must not be less than the 6 months preceding an action to enforce the lien, as currently provided in existing law.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=416>

**Effective October 1, 2009**

**AB251** – Existing law provides that the executive board of a unit-owners’ association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides that the election of any member of the executive board of a unit-owners’ association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) **Section 1 of this bill provides that, before notice is provided to each unit’s owner of his eligibility to serve on the executive board, the executive board may determine that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, the appropriate officer of the association will send a notice to each unit’s owner informing each unit’s owner that a unit’s owner who is qualified to be a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice.** If the executive board decides to send such a notice and, at the closing of the period for nominations, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association must conduct an election for membership on the executive board. If, after any additional nominations, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board, then such nominees shall be deemed to be duly elected members of the executive board.

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) Section 2 of this bill provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=501>

**Effective July 1, 2009**

**AB311** - Existing law requires a unit owners’ association with an annual budget of less than \$75,000 to have its financial statement audited once every 4 fiscal years unless an audit for a fiscal year in which an audit will not be conducted is requested by 15 percent of the total number of voting members of the association. (NRS 116.31144) This **bill requires the financial statement of such an association to be reviewed in the year immediately preceding the year in which a study of the association’s reserves is conducted unless an audit is otherwise requested by 15 percent of the voting members of the association.**

Existing law also requires an association with an annual budget of \$75,000 or more but less than \$150,000 to have its financial statement audited once every 4 fiscal years and reviewed every fiscal year for which an audit is not conducted. (NRS 116.31144) This bill requires the financial statement of such an association to be reviewed every fiscal year unless an audit is otherwise requested by 15 percent of the voting members of the association.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=613>

**Effective October 1, 2009**



**AB361** – Existing law assigns the responsibility for maintenance of a unit in a common interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law provides procedures for the executive board of the association to fine a unit's owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)

**Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if, after notice and a hearing, the unit's owner refuses or fails to do so.** Section 1 also provides that any amount of the costs for such maintenance or abatement which are not paid by the unit's owner will be a lien against the unit. Further, this section provides that the lien has priority over certain other liens, claims, encumbrances and titles, except certain liens recorded before the declaration for the association was recorded and certain liens of assessments and taxes. Finally, this section provides that the period of priority of the lien shall be indefinite, unless regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association provide for a shorter period of priority for the lien, but even if such organization's regulations provide for a shorter period of priority for the lien, the period of priority shall not be less than 6 months.

Section 2 of this bill specifically authorizes a unit-owners' association to charge a unit's owner for the maintenance and abatement services provided pursuant to section 1 of the bill. (NRS 116.3102) Section 3 of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit. (NRS 116.3116)

Section 4 of this bill provides that a unit-owners' association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=711>

**Effective October 1, 2009**

**SB216** – Existing law provides that a unit's owner may not change the appearance of the common elements or the exterior appearance of a unit without permission of the association. (NRS 116.2111) However, an association may not unreasonably restrict, prohibit or withhold approval for a unit's owner to add to a unit shutters to improve the security of the unit or to reduce the costs of energy for the unit. **This bill provides that an association may not unreasonably restrict, prohibit or withhold such approval for a unit's owner to add shutters that are attached to certain common elements or limited common elements under certain circumstances.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=605>

**Effective July 1, 2009**

**SB253** – **Section 2 of this bill provides additional ethical requirements for members of an executive board of a unit-owners' association by requiring:** (1) a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter; and (2) a member who has a member of his household or relative who stands to profit from a matter before the executive board to disclose before voting on the matter. (NRS 116.31185, 116.31187)

With some exceptions, existing law requires an executive board to hold open meetings, including meetings to consider a contract. (NRS 116.31085) **Sections 3 and 5 of this bill require an association that solicits bids for association projects,** including, without limitation, projects that involve maintenance, repair, replacement or restoration of any part of the common elements



or which involve services provided to the association, to consider and open the bids during a meeting of the executive board of the association.

Existing law provides for remedial and disciplinary action for any violation of the provisions of chapter 116 of NRS governing common-interest communities which will apply to a violation of section 2 or 3 of this bill.  
(NRS 116.745-116.795)

Existing law provides that except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. (NRS 116.335) Section 6 of this bill provides that unless, at the time a unit's owner purchased his unit, the declaration prohibited the unit's owner from renting or leasing his unit or required the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit, the association may not: (1) prohibit the unit's owner from renting or leasing his unit; or (2) require the unit's owner to secure or obtain any approval from the association in order to rent or lease his unit. Section 6 also provides that if a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased: (1) that provision of the declaration may not be amended on or after October 1, 2009, to decrease that maximum number or percentage of units which may be rented or leased; (2) a unit's owner may request a waiver of such provision upon a showing of economic hardship under certain circumstances; and (3) any units owned by the declarant must not be counted or considered in determining the maximum number of units in the common-interest community that may be rented or leased.

**Section 7 of this bill makes the provisions allowing the transient commercial use of units within a planned community that is restricted to residential use in certain circumstances applicable in all counties rather than just in larger counties.** (NRS 116.340)

Existing law requires a unit's owner or his authorized agent to furnish to a purchaser a resale package which includes certain documents relating to the association. (NRS 116.4109) Section 8 of this bill: (1) requires the unit's owner to furnish the resale package at his own expense; and (2) requires the disclosure of any transfer fees, transaction fees or other fees associated with the resale of the unit.

Section 9 of this bill increases the amount of the administrative fine that may be imposed against a person who engages in certain activity without holding the required certificate or permit from \$5,000 to \$10,000. (NRS 116A.900)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=694>

**Effective October 1, 2009**

**SB261 – This bill makes various changes relating to common-interest ownership to: (1) incorporate certain revisions to the Uniform Common-Interest Ownership Act promulgated by the Uniform Law Commission; and (2) eliminate references to the preparation of certain plans regarding certain common-interest communities and condominium hotels.**

Sections 2, 3, 6 and 9 of this bill provide that the provisions of the Uniform Act only apply to a nonresidential condominium if the declaration so provides.

Sections 4 and 7 of this bill clarify the applicability of the Uniform Act by revising the definition of "common-interest community" to: (1) reflect the revisions promulgated by the Uniform Law Commission; and (2) clarify that certain agreements to share expenses do not create a common-interest community. (NRS 116.021)

Sections 8 and 10-26 of this bill eliminate references to the preparation of certain plans for certain common-interest communities and condominium hotels. (NRS 116.089, 116.1206, 116.2105, 116.2109, 116.211, 116.2112, 116.2113, 116.2114, 116.2117, 116.345, 116.4103, 116.4109, 116B.225, 116B.295, 116B.350, 116B.365, 116B.760)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=704>

**Effective October 1, 2009**

**SB351** – Section 3 of this bill provides that a unit-owners’ association **must deposit all funds of the association into certain financial institutions**. Section 3 also provides that an association shall invest all funds of the association in certain investments.

Section 7 of this bill clarifies existing law to provide that a change in the use of a unit which requires unanimous approval of the units’ owners includes only changes to the boundary of a unit or the allocated interests of a unit. (NRS 116.2117)

Section 9 of this bill provides that the executive board of an association **may not fill a vacancy on the board without a vote of the units’ owners if the governing documents provide that the vacancy must be filled by a vote of the membership of the association**. (NRS 116.3103)

Existing law requires an association to: (1) establish reserves for the repair, replacement and restoration of the major components of the common elements; (2) include in the annual budget certain information pertaining to the repair, replacement and restoration of the major components of the common elements; and (3) conduct a study every 5 years of the reserves required to repair, replace and restore the major components of the common elements. (NRS 116.3115 116.31151, 116.31152)

Sections 12, 12.3 and 12.7 of this bill require an association to perform such functions with respect to any other portion of the common-interest community which the association has a duty to maintain, repair, replace or restore in addition to the major components of the common elements.

Section 13 of this bill amends existing law to exempt architectural records submitted by a unit’s owner from the records which must be made available by an association. (NRS 116.31175)

Section 14 of this bill amends existing law to add to the information statement provided as part of a purchase of a unit in a common-interest community a statement that the provisions of the Declaration of Covenants, Conditions and Restrictions or other governing documents may be superseded by provisions of chapter 116 of NRS. (NRS 116.41095)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=970>

**Effective October 1, 2009**

## **Disclosures**

**SB106** – Existing law requires the seller of a home or improved lot that is adjacent to open range to make certain disclosures to the purchaser concerning the livestock that may enter the property from the adjacent open range. (NRS 113.065) **This bill amends the existing law to: (1) require the seller to disclose to the purchaser that the lot may be subject to R.S. 2477 roads or other rights-of-way; (2) require the seller to provide to the purchaser a copy of the disclosure document that is signed and acknowledged by the purchaser; (3) require the seller to record a copy of the disclosure document in the office of the county recorder where the property is located; and (4) provide an affirmative defense to the seller in an action brought by the purchaser against the seller for damages allegedly suffered as a result of any right-of-way included in the disclosure.** (NRS 113.065)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=223>

**Effective July 1, 2009**

## **Foreclosure/Mortgage/Brokers/Escrow**

**AB140** – Sections 2 and 7 of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee’s power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. **Sections 2 and 6.7 of this bill require, if the sale of property is a residential foreclosure, a separate notice to be served upon any tenant or subtenant, other than the**

**judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or subtenant that the property is subject to a notice of sale.** (NRS 21.130)

Sections 3 and 8 of this bill make it unlawful for a person to willfully remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084)

Sections 4 and 6 of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. Sections 4 and 6 also authorize the appropriate governmental entity to assess a civil penalty of up to \$1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) Section 5 of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. Section 5 also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. Section 5 further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if the property has been sold as a residential foreclosure. Finally, section 5 allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. Section 9 also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

**Section 10 of this bill amends section 3 of Assembly Bill No. 149 of this session to ensure that social security numbers are redacted from the copy of a promissory note before it is attached to a notice given before a trustee's power of sale is carried out.** (NRS 107.085)  
<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=301>  
**Effective July 1, 2009 and October 1, 2009**

**AB144** – Existing law requires annual or biennial examinations for various mortgage brokers. (NRS 645B.060) **Section 1 of this bill prohibits the results of an annual examination from being released to the public until after a period of time set by the Commissioner of Mortgage Lending to determine any objections made by the mortgage broker to the results.**

Existing law provides requirements regarding certain information on mortgage brokers that is to be made available for public inspection. (NRS 645B.090) Section 2 of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. The revised requirements relate to information regarding ownership and management structure, annual or biennial examinations, other examinations or audits, investigations or hearings, and standards for withholding other information.

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless the mortgage broker has first obtained a written appraisal of the real property securing the loan. (NRS 645B.300) Section 2.5 of this bill requires the appraisal to be made not more than 6 months before the mortgage broker's first solicitation for the loan and the appraisal

to meet certain standards. Section 2.5 further requires a mortgage broker to make additional disclosures to an investor if the investor waives the requirement that an appraisal be obtained.

Existing law provides requirements regarding disciplinary action for certain violations of law relating to the business of a mortgage broker. (NRS 645B.690) Section 3 of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. If such a mortgage broker receives the lowest possible rating on two consecutive annual or biennial examinations, the license of that mortgage broker will be suspended or revoked.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=305>

**Effective October 1, 2009**

## AB149

### Judicial Administration District Court/Supreme Court

- AB 149 Foreclosure Mediation Program
  - Applies to foreclosure notices recorded on or after July 1, 2009
  - Owner occupied/owner election
  - Power of sale may not be exercised by Trustee until completion of mediation
  - Good faith is key



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**Notes:** See ADKT 435, Order Adopting Foreclosure Mediation Rules, dated June 30, 2009, effective July 31, 2009. Detailed information regarding Nevada's Foreclosure Mediation Program may be accessed from the Court's website at <http://www.nevadajudiciary.us/index.php/foreclosure-mediation.html>. Fees associated with the program include a \$50.00 fee upon the recordation of the Notice of Default/Election to Sell and \$400.00 mediation fee to be shared equally between borrower and lender.

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085) Section 1 of this bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing by providing a grantor of a deed of trust or the person who holds the title of record with the right to request mediation under which he may receive a loan modification. Once mediation is requested, no further action may be taken to exercise the power of sale until the completion of the mediation.

Each mediation must be conducted by a senior justice, judge, hearing master or other designee pursuant to rules adopted by the Nevada Supreme Court, and a fee of not more than \$85 per hour may be charged and collected for the mediation.

Section 2 of this bill also restricts the trustee's power of sale with respect to owner-occupied housing by revising the period in which a deficiency in performance or payment under the trust agreement may be made good before the trustee may exercise that power. Similarly, section 3 of this bill restricts the trustee's power of sale with respect to owner-occupied housing by revising the manner in which service of notice that a person is in danger of losing his home must be made.



In addition, section 4 of this bill authorizes the Nevada Supreme Court to adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=313>

**Effective July 1, 2009**

**Amends: NRS 107**

**AB151 – Section 1 of this bill requires a mortgage broker to include his license number on each loan secured by a lien on real property for which he engages in activity as a mortgage broker.** If a mortgage broker fails to comply with section 1, the Commissioner of Mortgage Lending may impose an administrative fine of not more than \$10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. (NRS 645B.670) In addition, a mortgage broker who fails to comply with section 1 is guilty of a misdemeanor. (NRS 645B.950)

**Section 2 of this bill requires a financial institution that offers nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property.** The disclosures must be written in language that is easy to understand and printed in at least 10- point type or font. In addition, section 2 requires the financial institution to certify to the Commissioner of Financial Institutions that the disclosures have been made. Section 2 also authorizes the financial institution to contract with a nonprofit or government-operated consumer credit counseling or housing counseling agency or a nonprofit or government-operated legal services agency to make the required certifications. A financial institution that fails to comply with section 2 is guilty of a misdemeanor. (NRS 668.115)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=319>

**Effective May 29, 2009**

**AB152 – Section 2 of this bill defines the term “loan modification consultant.”**

Existing law does not currently require a foreclosure consultant to be licensed. (NRS 645F.300-645F.450) **Section 3 of this bill requires the Commissioner of Mortgage Lending to adopt separate regulations for the licensing of a person who performs any of a variety of specified services for compensation, a foreclosure consultant and a loan modification consultant.**

Section 3.1 of this bill requires such persons to execute a written contract with a homeowner before providing certain services for compensation. Section 3.1 also requires the Commissioner to adopt regulations describing the information that must be contained in such a written contract.

Sections 3.3 and 6.5 of this bill require a person who performs certain services for compensation, a foreclosure consultant and a loan modification consultant to deposit any money received as compensation for the performance of certain services in a trust account. Section 3.3 also requires such persons to maintain certain records regarding such trust accounts and prohibits withdrawals from such trust accounts until the completion of certain services as agreed upon in a written contract for the performance of such services. Section 3.3 further authorizes the Commissioner or his authorized agents to inspect and audit the records associated with the trust accounts.

Section 3.5 of this bill grants certain additional powers to the Commissioner with regard to the conduct of any examination, periodic or special audit, investigation or hearing. Section 3.7 of this bill requires the Commissioner to adopt regulations to establish rates to be paid by a person who performs certain services for compensation, a foreclosure consultant and a loan modification consultant for supervision and examinations by the Commissioner or the Division of Mortgage Lending of the Department of Business and Industry. (NRS 645F.280) Section 3.9 of



this bill requires the Commissioner to collect an assessment from such persons for deposit in the Fund for Mortgage Lending. (NRS 645F.290)

Section 5 of this bill revises the definition of “homeowner” as it applies to services performed by foreclosure consultants by expanding the definition to include any record owner of residence, rather than only the record owner of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure is recorded or the notice of default and election to sell is recorded. (NRS 645F.360)

Section 6 of this bill provides that an attorney at law is exempt from the provisions governing a person who performs any covered service for compensation, a loan modification consultant, a foreclosure consultant or a foreclosure purchaser unless the services rendered by the attorney are performed in the course and scope of his employment by or other affiliation with a mortgage broker or mortgage agent. (NRS 645F.380)

Section 6.5 of this bill provides that the violation of certain provisions by such persons shall be deemed to constitute mortgage lending fraud, as that term is described in NRS 205.372. (NRS 645F.400)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=320>

**Effective May 29, 2009 and July 1, 2009**

**AB471 – Section 1 of this bill provides a right to cure a deficiency in payment on a mortgage or other encumbrance before a judicial foreclosure sale at any time not later than 5 days before the date of sale.**

Under existing law, a judgment creditor or a beneficiary of a deed of trust may obtain, after a hearing, a deficiency judgment after a foreclosure sale or trustee’s sale if it appears from the sheriff’s return or the recital of consideration in the trustee’s deed that there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust. (NRS 40.455) Section 2 of this bill provides that if the judgment creditor or the beneficiary of the deed of trust is a financial institution, a court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if: (1) the real property is a single-family dwelling and the debtor or grantor was the owner of the property; (2) the debtor or grantor used the loan to purchase the property; (3) the debtor or grantor occupied the property continuously after obtaining the loan; and (4) the debtor or grantor did not refinance the loan.

Section 3 of this bill provides that the amendatory provisions of this bill apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=912>

**Effective October 1, 2009**

**AB486 – Sections 2, 13 and 19 of this bill authorize the Commissioner of Mortgage Lending to require escrow agencies, escrow agents, mortgage brokers, mortgage agents and mortgage bankers to pay restitution under certain circumstances.**

Sections 3, 14 and 20 of this bill provide that if any person engages in the escrow business or the business of a mortgage broker, agent or banker without a license, the contract for the transaction in question may be voided by the other parties to the contract. Sections 3, 17 and 20 of this bill authorize the Commissioner to impose an administrative fine of \$50,000 under the same circumstances.

Sections 4, 5, 15, 16, 21 and 22 of this bill provide that parties to certain escrow and mortgage transactions may bring a civil suit against the person who has engaged in the escrow or mortgage business without a license and also establish provisions relating to the exercise of jurisdiction by a court of this State.

Section 6 of this bill increases the fine imposed on escrow agencies or agents from \$500 to \$10,000 for each occurrence of certain violations.

Sections 8 and 9 of this bill require a mortgage broker, as a condition to doing business in this State, to deposit with the Commissioner a corporate surety bond or other security in the amount of \$50,000 for the principal office and \$25,000 for each branch office, not to exceed an aggregate amount of \$75,000.

Section 10 of this bill allows a surety to cancel a bond with notice and requires the Commissioner to inform a mortgage broker or mortgage agent that his license will be revoked unless an equivalent bond or security is deposited before the cancellation.

Section 11 of this bill provides for the manner in which claims against a bond may be paid. Section 12 of this bill provides that a mortgage broker or mortgage agent has a fiduciary obligation to his client.

Section 24 of this bill grants regulatory authority over mortgage lending and related professionals, including foreclosure consultants, to the Commissioner by requiring the Commissioner to adopt regulations relating to mortgage lending and other professionals. Section 25 of this bill requires certain persons and institutions in the business of servicing mortgage loans secured by a lien on real property located in this State to register with the Commissioner.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=938>,

**Effective October 1, 2009**

**AB513** – Sections 3 and 4 of this bill establish educational prerequisites and continuing education requirements for an escrow agent or agency. Sections 5, 9 and 15 of this bill provide that the jurisdiction and authority of the Commissioner of Mortgage Lending is unaffected by the expiration or voluntary surrender of a license as an escrow agent or agency, mortgage broker, mortgage agent or mortgage banker.

**Sections 6, 12 and 18 of this bill provide that the Commissioner may subpoena documents without also subpoenaing the custodian of such documents.** (NRS 645A.060, 645B.070, 645E.310)

Section 8 of this bill provides that if the beneficial interest in a loan for real property belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record.

Sections 10 and 16 of this bill eliminate the exemption of consumer finance companies from licensing and other requirements governing mortgage brokers, mortgage agents and mortgage bankers. (NRS 645B.015, 645E.150) Sections 11 and 17 of this bill revise existing law by requiring proof of the right to transact mortgage loans, if applicable, in another jurisdiction as a condition to obtaining an exemption to licensing and other provisions governing mortgage brokers, agents and bankers. (NRS 645B.016, 645E.160)

Existing law requires a mortgage broker to include a servicing fee in any loan for which he engages in activity as a mortgage broker. (NRS 645B.305) Section 13 of this bill limits the requirement to only such loans in which a private investor has acquired a beneficial interest. Section 13 also requires a mortgage broker to make additional disclosures pertaining to fees earned by the mortgage broker and any impact such fees may have on the terms of the loan.

Section 14 of this bill revises existing law to provide that the Commissioner has the discretionary authority, rather than a mandatory obligation, to revoke the license of a mortgage broker or mortgage agent under certain circumstances. (NRS 645B.690)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=989>

**Effective May 29, 2009, and January 1, 2011**

**SB333** – Existing law authorizes a borrower to terminate the operation of a mortgage, deed of trust or other instrument encumbering real property as security for future advances of principal by sending written notice to the lender. (NRS 106.380) **This bill revises the procedure for a lender to record a statement regarding such a termination and sets forth the procedure for a**

**lender to provide an address for the purpose of receiving such termination notices that is different from any address that is listed for the lender in the mortgage, deed of trust or other instrument.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=917>

**Effective October 1, 2009**

## **Homestead**

**SB67** – Under existing law, the owner of property used as a homestead is authorized to file a written declaration of homestead for that property, which protects up to \$550,000 of equity in the property from forced sale, except in certain circumstances. (Nev. Const. Art. 4, § 30; NRS 115.010, 115.020) The contents of such a declaration are prescribed by law. (NRS 111.312, 115.020) Section 1 of this bill requires the **Real Estate Division of the Department of Business and Industry**, after soliciting and considering recommendations from the county recorders, to **prescribe a form that may be used for filing a declaration of homestead**. Section 1 also requires the Division and each county recorder to make the form available to the public, free of charge.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=138>

**Effective October 1, 2009**

## **Landlord/Tenant**

**AB512** – Existing law requires a landlord and a tenant to perform certain obligations with respect to a lease of real property. As part of a lease, a landlord may demand a tenant provide security for the tenant's obligations, such as: (1) payment of rent; (2) repairing damage to the premises; and (3) cleaning the dwelling. (NRS 118A.240-118A.250)

**Section 2 of this bill provides that, instead of requiring a security deposit, a landlord may allow a tenant to provide the landlord with a surety bond, or a combination of a surety bond and other security, to cover the amount of security demanded by the landlord. This section also: (1) provides that a landlord is not required to accept a surety bond; and (2) provides that a landlord may not require a tenant to provide a surety bond in place of security. Section 2 also provides that a tenant may dispute items contained in a landlord's claim against a surety and prohibits a surety, under certain circumstances, from reporting a landlord's claim to a credit reporting agency unless the surety obtains a judgment against the tenant.** (NRS 118A.242)

Section 3 of this bill requires, at the termination of the landlord's interest in the dwelling unit under certain circumstances, that the successor in interest accept the tenant's security or surety bond, or a combination thereof, and prohibits the successor in interest from demanding additional security or surety during the term of the rental agreement. (NRS 118A.244)

Section 1 of this bill amends the existing definition of security to provide that a payment made to a licensed surety to secure a surety bond is not security for the purposes of determining security given to a landlord. (NRS 188A.240)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=988>

**Effective October 1, 2009**

## **Mining**

**SB108** – Existing law authorizes the use of hollow metal posts and durable plastic pipe to define the boundaries of a lode mining claim if the post or pipe is securely capped with no open perforations. (NRS 517.030) This bill **provides that a hollow metal post which is used to mark the boundaries of a lode mining claim must be securely capped or crimped in a manner that securely closes the top of the post and have no open perforations.** This bill also provides that

any durable plastic pipe used to mark a claim must be replaced on or before November 1, 2011. If replaced on or before that date, the durable plastic pipe must be taken from the lode mining claim and disposed of in a lawful manner. After that date, any such durable plastic pipe may be removed and placed adjacent to the location from which it is removed.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=227>

**Effective July 1, 2009**

## **Planning/Zoning**

**AB294** – Under existing law, the concept of requiring certain minimum distances between group homes was enacted initially in 1999, and the minimum distance was at that time set at 660 feet. (Chapter 619, Statutes of Nevada 1999, pp. 3365-66) In 2001, the minimum distance between group homes was altered to be a range of 660 feet to 1,500 feet. (Chapter 395, Statutes of Nevada 2001, pp. 1907-09) Most recently, the range of minimum distances between group homes was raised to be a range of 1,500 feet to 2,500 feet. (Chapter 297, Statutes of Nevada 2007, pp. 1131-33) However, at all relevant times, the applicable section specifying the distances between group homes (NRS 278.021, replaced in revision by NRS 278.02386) has stated that there is no presumption that the location of more than one group home within the specified distance or range is inappropriate under all circumstances.

On July 9, 2008, the United States District Court for the District of Nevada struck down the entirety of Nevada's "group home statute" (NRS 278.0238- 278.02388), finding that it was facially discriminatory and therefore preempted by the Fair Housing Amendments Act, 42 U.S.C. §§ 3601-31. (*Nevada Fair Hous. Ctr., Inc. v. Clark County*, 565 F. Supp. 2d 1178, 1183 (D. Nev. 2008))

**This bill directs the Legislative Commission to conduct an interim study concerning group homes. In relevant part, the committee appointed by the Legislative Commission to conduct the interim study must examine potential methods by which the siting of group homes may be monitored and regulated in a manner that is consistent with federal law.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=576>

**Effective July 1, 2009**

**AB304** – Under existing law, certain plans and zoning regulations must incorporate the consideration of certain policies, including the protection of existing neighborhoods and communities. (NRS 268.190, 278.02528, 278.0274, 278.150, 278.160, 278.170, 278.250)

**Sections 1.4 and 2-16 of this bill require certain local governmental entities to address the preservation of historic neighborhoods in those plans and regulations.**

Existing law designates certain areas in the urban core of the Las Vegas Valley as the Southern Nevada Enterprise Community. Existing law also establishes the Southern Nevada Enterprise Community Advisory Board and requires the Board to prepare, develop and carry out a project of infrastructure improvement in the Community. (Chapter 407, Statutes of Nevada 2007, pp. 1781-86) Section 25 of this bill changes the name of the Board, and section 6 of this bill revises the membership. Section 27 of this bill expands the duties of the Board to include identifying, seeking funding for and carrying out additional projects in the Community. Section 1.7 of this bill creates the Southern Nevada Enterprise Community Projects Fund and authorizes the Board to administer the Fund.

Section 32 of this bill requires the City of Las Vegas and the Nevada Department of Transportation to cooperate in funding and bringing about the approval, design and construction of the project to reopen F Street in Las Vegas.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=599>

**Effective June 2, 2009, and October 1, 2009**



# Specialty Courts/Drugs

## Alcohol

**AB432** – Under existing law, certain employees of certain establishments that sell alcohol must have successfully completed an alcoholic beverage awareness program. The owner of an establishment that is not in compliance must pay an administrative fine, to be imposed by the Department of Taxation. Money from the administrative fines must be divided equally into the Fund for the Compensation of Victims of Crime and the Alcoholic Beverage Awareness Program Account in the State General Fund. (NRS 369.630) **Section 1 of this bill provides that peace officers may enforce the requirements of the provision relating to employees having successfully completed the program by issuing a notice of a civil infraction for violations.**

Section 1 also revises the provision for distribution of the money received by the Department for fines from establishments found in violation, providing that instead of depositing 50 percent of the money in the Fund for the Compensation of Victims of Crime and 50 percent of the money in the Alcoholic Beverage Awareness Program Account, 50 percent of the money must be deposited in the Account for Aid for Victims of Domestic Violence and 50 percent of the money must be deposited in the account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.

Section 2 of this bill requires each recipient of money from the collection of fines for civil infractions to submit a report to the Legislature concerning the amount of money received and how the money was used. In addition, certain law enforcement agencies and the Department of Taxation are required to submit a report to the Legislature concerning the enforcement of the provisions requiring employees to participate in an alcoholic beverage awareness program.

Section 4 of this bill requires the Legislative Auditor to conduct an audit of any fines imposed pursuant to NRS 369.630 after July 1, 2007.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=821>

**Effective October 1, 2009**

## Drug Endangered Children

**AB337** – **This bill creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General.** The Attorney General appoints the Statewide Coordinator for Children Who Are Endangered by Drug Exposure, who will engage in activities to assist in the establishment of programs for children who are endangered by drug exposure and to educate the public about children who are endangered by drug exposure. Section 2 of this bill defines “child who is endangered by drug exposure” for the purposes of these provisions.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=668>

**Effective July 1, 2009**

## Manufacture of Drugs/Safe Habitation

**SB60** – Existing law provides that a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog which has not been deemed safe for habitation by a governmental entity or from which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so is a public nuisance. (NRS 40.140, 202.450) **Sections 2 and 4 of this bill provide that the district board of health in a county whose population is 400,000 or more (currently Clark**



**County) or the State Board of Health in all other counties is the governmental entity responsible for determining that the building or place is safe for habitation.**

Existing law provides that in any sale, lease or rental of real property, the fact that the property is or has been the site of a crime that involves any quantity of methamphetamine must be disclosed to the buyer, lessee or tenant unless: (1) all materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or (2) the property has been deemed safe for habitation by a governmental entity. (NRS 40.770)

Existing law requires similar disclosures to a transferee of a manufactured home, mobile home or commercial coach that is or has been the site of a crime that involves any quantity of methamphetamine. (NRS 489.776) Sections 3 and 9 of this bill provide that the district board of health in a county whose population is 400,000 or more or the State Board of Health in all other counties is the governmental entity responsible for determining that the property is safe for habitation.

Section 1 of this bill requires a district board of health and the State Board of Health to evaluate the removal or remediation of substances involving a controlled substance, immediate precursor or controlled substance analog and any material, compound, mixture or preparation that contains any quantity of methamphetamine. Section 1 further requires the State Environmental Commission to adopt regulations: (1) concerning the monitoring of the removal or remediation of such substances; and (2) establishing standards pursuant to which a property, building or place may be deemed safe for habitation.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=121>

**Effective May 26, 2009 and July 1, 2009**

## **Prescription Drugs**

**AB326** – Existing law provides for the creation of a computerized program to track prescriptions for controlled substances listed in schedule II, III or IV. **Section 7 of this bill requires that the database of the computerized program be made available on the Internet to persons who are authorized to dispense controlled substances in this State.**

Section 7 further requires that the computerized program contain the contact information of each practitioner and person authorized to dispense controlled substances who elects to access the database of the program. In addition, section 7 requires the Board and the Investigation Division of the Department of Public Safety to establish a course of training in the computerized program and further requires that a person complete the course of training before the Board provides the person with access to the database of the program. (NRS 453.1545)

Section 9 of this bill requires the Legislative Committee on Health Care to conduct a study of the abuse of prescription narcotic drugs and the manner of monitoring and addressing such abuse in this State and to submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature on or before January 15, 2011.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=649>

**Effective July 1, 2009**

**AB370** – Existing law authorizes the issuance of a license to an applicant to conduct a pharmacy upon compliance with all licensing requirements. (NRS 639.231) **This bill authorizes the establishment of remote sites and satellite consultation sites for the dispensing of prescriptions, and telepharmacies, which are connected to such sites via computer link, video link and audio link to enable a registered pharmacist or a dispensing practitioner at the telepharmacy to oversee the dispensing of prescriptions to patients at a remote site or satellite consultation site.**

Section 6 of this bill requires a remote site or satellite consultation site to be located at least 50 miles from the nearest pharmacy and in a service area with a total population of less than 2,000. Section 6 also authorizes such sites to be operated by a pharmaceutical technician or a dispensing technician. Section 6 further requires the State Board of Pharmacy to adopt regulations which establish the manner of determining a “service area.” Sections 8 and 9 of this bill exempt those sites from the requirement that every pharmacy must be managed by a registered pharmacist. (NRS 639.220, 639.284)

Section 5 of this bill requires the State Board of Pharmacy to adopt regulations for the operation of remote sites, satellite consultation sites and telepharmacies and for the definition, registration, discipline, qualifications, powers and duties of dispensing practitioners and dispensing technicians.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=721>

**Effective July 1, 2009**

**AB538** – Existing law provides that the limited and regulated use of marijuana by persons who suffer from certain medical conditions and who obtain a registry identification card through a program governed by the State Department of Agriculture is exempt from prosecution under the laws of this State. (Chapter 453A of NRS) **This bill transfers the responsibility for the governance of the registry identification card program from the State Department of Agriculture to the Health Division of the Department of Health and Human Services.**

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1087>

**Effective May 22, 2009, and July 1, 2009**

## Specialty Court

AB47

### Specialty Courts/Drugs Specialty Court

- SB47 Changes to Specialty Court
  - Repeals the three year waiting period for sealing of specialty court records, and requires that the record for the offense for which the defendant was sentenced to specialty court be sealed upon final completion of the program
  - Defendants who successfully complete the ‘3<sup>rd</sup> DUI Treatment Program’ do not have to have their license suspended for an additional year when the offenses is treated like 2<sup>nd</sup> DUI



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Sections 1.5 and 5.5 of this bill remove the 3-year waiting period and require a court to immediately, upon completion of a program for the treatment of mental illness or mental retardation or a program of treatment for the abuse of alcohol or drugs, seal all records relating to the case. (NRS 176A.265, 453.3365)

Sections 2-5 and 7 of this bill require a court, upon completion of a presentence program of treatment for the abuse of alcohol or drugs, to seal all records relating to the case.

Section 7.5 of this bill provides that certain offenders who are convicted of driving under the influence and are accepted into a program of treatment for the abuse of alcohol or drugs must not have their license, permit or privilege to drive revoked. (NRS 484.37941)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=110>

**Effective May 19, 2009**



**Amends: NRS 176.A256, NRS 179.245, NRS 179.275, NRS 179.285, NRS 179.295, NRS 453.3365, NRS 458.330, NRS 484.37941**

**AB102**

**Specialty Courts/Drugs  
Specialty Court**

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- AB102 Problem Gambling Court
  - Authorizes a court to establish a program for the treatment of problem gambling
  - Provides that a problem gambler who has been convicted of certain crimes and who committed the crime in furtherance or as a result of problem gambling is eligible to be assigned by a court to a program of treatment and provide eligibility requirements and conditions that must be completed for such treatment. The conditions upon the election of treatment must include an agreement to pay restitution to the victim of the crime.

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Existing law authorizes a court to assign a person who commits certain crimes to an appropriate program of treatment for the abuse of alcohol or drugs established by the court or to an appropriate facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services. (NRS 453.580)

Section 6 of this bill authorizes a court to establish a program for the treatment of problem gambling. Existing law creates the Advisory Committee on Problem Gambling and provides a grant of money or a contract for services to certain programs for the prevention and treatment of problem gambling. (Chapter 458A of NRS) Sections 7-12 of this bill provide that a problem gambler who has been convicted of certain crimes and who committed the crime in furtherance or as a result of problem gambling is eligible to be assigned by a court to a program of treatment and provide eligibility requirements and conditions that must be completed for such treatment. The conditions upon the election of treatment must include an agreement to pay restitution to the victim of the crime.



Existing law allows a court to seal the records related to a dismissal or acquittal of criminal charges. (NRS 179.255) Section 14 of this bill allows a court to seal records relating to the setting aside of a conviction if the person satisfactorily completed a program for treatment of problem gambling and satisfied the conditions upon the election of that treatment. The sealing of these records is subject to the same procedures, and has the same effect, as the sealing of records related to a dismissal or acquittal of criminal charges. (NRS 179.255, 179.265-179.301)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=217>



**Effective October 1, 2009**

**Amends: NRS Chpt. 458A, NRS 458A.010, NRS 179.255**

**AB187**

 **Specialty Courts/Drugs  
Specialty Court** 

- AB187 Veterans' Court
  - Allows a court to create a specialty court specifically for veterans of the military
  - Allows transfers of defendants between limited and general jurisdictions to participate in such a program
  - Requires all judges to ask all defendants if they are veterans of the military

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Existing law authorizes a district court to establish a program for the treatment of offenders with mental illness. (NRS 176A.250-176A.265) Sections 2-15 of this bill, using that existing law as a model, authorize a district court to establish a program for the treatment of certain eligible defendants who are veterans or members of the military. Section 8 of this bill authorizes a court to suspend further proceedings, without entering a judgment of conviction and with the consent of an eligible defendant, and to place the defendant on probation with terms conditions that include successful completion of the program of treatment. Section 8 also generally prohibits a court from assigning a defendant to a program of treatment if the defendant: (1) committed an offense for which the suspension of sentence or the granting of probation is prohibited by existing law; (2) committed an offense that involved the use of force or violence; or (3) was previously convicted of a felony that involved the use or threatened use of force or violence. Section 9 of this bill requires a court, under certain circumstances, to seal documents relating to a case involving a defendant who was assigned to the program of treatment after the defendant is discharged from probation. Sections 17 and 19 of this bill authorize justice courts and municipal courts to transfer original jurisdiction of certain cases involving misdemeanors to the district court for the purpose of assigning offenders to the program of treatment. (NRS 4.370, 5.050)

Sections 1, 16 and 18 of this bill also require a district court, justice court and municipal court to ask a defendant if he is a veteran or a member of the military. (NRS 176.015)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=389>

**Effective July 1, 2009**

**Amends: NRS 176.015, NRS 176.0613, NRS Chpt. 176A, NRS 176A.010, NRS 176A.500, NRS 179.245, NRS 179.275, NRS 179.285, NRS 179.295, NRS Chpt. 4, NRS 4.370, NRS Chpt. 5, NRS 5.050**

# Victims

## Compensation

AB114

### Victims Compensation

- AB114 Compensation Decision Appeal
  - Extends the time a victim of crime has to appeal a decision of the Fund for the Compensation of Victims of Crime from 15 to 60 days



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This bill extends the time to appeal a compensation officer's denial of a claim seeking compensation from the Fund for the Compensation of Victims of Crime from 15 to 60 days.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=256>

**Effective May 6, 2009**

**Amends: NRS 217.110**

AB116

### Victims Compensation

- AB116 Compensation procedure
  - Requires a law enforcement agency or juvenile court, as applicable, to provide the compensation officer with a copy of the requested investigative and police reports within 10 days after the receipt of such a request or within 10 days after the report is completed, whichever is later
  - Exempts certain contributory conduct of a victim in cases involving domestic violence or sexual assault from the required considerations of a compensation officer



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To receive compensation from the Fund for the Compensation of Victims of Crime, a fund which is created in existing law, a victim must submit an application to a compensation officer appointed by the State Board of Examiners, who conducts an investigation, determines eligibility and renders a decision about the payment of compensation to the victim. (NRS 217.090, 217.100, 217.260) During an investigation, a compensation officer may order certain reports, including investigative and police reports. (NRS 217.110)

Section 1 of this bill requires a law enforcement agency or juvenile court, as applicable, to provide the compensation officer with a copy of the requested investigative and police reports within 10 days after the receipt of such a request or within 10 days after the report is completed, whichever is later. Section 2 of this bill exempts certain contributory conduct of a victim in cases



involving domestic violence or sexual assault from the required considerations of a compensation officer in determining whether to make an order for compensation.

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=258>

**Effective May 22, 2009**

**Amends: NRS 217.110**

**AB283**

**Victims  
Compensation**

- AB283 Family Compensation
  - Increases the amount of an award that the dependants or family of certain victims of crime can receive to \$100,000, with a possible additional award of \$50,000



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Existing law establishes the Fund for the Compensation of Victims of Crime. (NRS 217.260) The victims of certain crimes, the dependents of those victims and certain members of the victim’s household may apply to the State Board of Examiners for compensation from the Fund for certain expenses and losses, not to exceed \$50,000 per award. (NRS 217.100, 217.160, 217.200) This bill increases the amount of compensation that may be awarded to \$100,000 and further authorizes an additional award of up to \$50,000 in certain circumstances.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=563>

**Effective May 29, 2009**

**Amends: NRS 217.200**

**Notification**

**AB61**

**Victim Notification**

- AB61 Victim Notification
  - Requires Division of Mental Health to notify a victim if a perpetrator, who was remanded to the custody of Division, is conditionally released or escapes
  - A court must inform a victim of his/her right to be notified



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Section 1 of this bill requires the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his designee to notify certain victims of criminal acts of the discharge, conditional release or escape from the custody of the Administrator of certain persons committed to the custody of the Administrator, such as a person who was acquitted by reason of insanity or a person who was found incompetent

with no substantial probability of attaining competency in the foreseeable future. This section also requires the Administrator to provide the victim notice of such a discharge or release within a certain period of time. (NRS 175.539, 178.425)

Section 1 is patterned after a provision of existing law that similarly requires the Director of the Department of Corrections to notify a victim of an offender of the release into the community or escape of the offender from the custody of the Department. (NRS 209.521)

Section 3 of this bill requires a court to provide documentation to certain victims of a person committed to the custody of the Administrator and to certain other persons of their right to be notified of the information set forth in section 1 of this bill. (NRS 178.5698)

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=137>

**Effective May 6, 2009**

**Amends: NRS Chpt. 178, NRS 178.3981, NRS 178.5698**



# Resolutions/Studies/Committees


## Article 6 Changes

SJR2 74<sup>th</sup>

**Resolutions**  
District/Supreme

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- SJR 2 Judicial Selection (Nevada Plan)
  - Constitutional amendment re appointment of DC judges and SC justices by Governor for initial term
  - Provides for retention election requiring 55 percent votes in favor
  - Creates Commission on Judicial Performance



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**Notes:** The Commission on Judicial Selection will recommend candidates to the Governor for judicial appointment.

Also requires each judge who declares his/her candidacy for retention election to undergo a performance review, which will include a review of the judge's record and an interview. The review will also include a recommendation by the Commission as to whether the judge or justice should be retained. Results of the review will be made public. The Article 6 Commission recently adopted a report prepared by the Grant Sawyer Center for Justice Studies.

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This resolution amends the Nevada Constitution, which currently provides for the popular election of justices of the Supreme Court and judges of the district court, to provide for: (1) the initial appointment by the Governor of justices and judges, from candidates recommended by the Commission on Judicial Selection; and (2) any subsequent retention of those justices and judges by approval of a ballot question concerning their retention. (Nev. Const. Art. 6, §§ 3, 5) Under this resolution, if a vacancy occurs in the Supreme Court or a district court for any reason, the Governor appoints a justice or judge from candidates selected by the Commission on Judicial Selection, and the initial term of that justice or judge expires on the first Monday of January following the general election occurring at least 12 months after the justice or judge is appointed. Thereafter, if the justice or judge wishes to serve another term, he must declare his candidacy for a retention election. If 55 percent or more of the votes cast are in favor of the retention of the justice or judge, he will then serve a 6-year term and must run in a retention election if he wishes to serve another 6-year term. If the justice or judge does not declare his candidacy for the retention election or if less than 55 percent of the votes cast are in favor of his retention, a vacancy is created at the end of his term which must be filled by appointment.

In addition, this resolution amends the Nevada Constitution to require each justice or judge who has declared his candidacy for a retention election to undergo a review of his performance as a justice or judge. This resolution creates the Commission on Judicial Performance and requires the Commission to perform these reviews. The review of each justice or judge must consist of a review of the record of the justice or judge and at least one interview of the justice or judge. At the conclusion of this review, the Commission must prepare and release to the public a report containing information about the review and a recommendation on the question of whether the justice or judge should be retained.

<https://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=241>

**On File May 22, 2009, On 2010 General Election Ballot**

**Amends: Nevada Constitution Article 6 (new section), Article 6, Sections 3, 5, 15, 20, 21**

## SJR9 74th

### Resolutions All Courts

- SJR 9 Intermediate Appellate Court
  - Constitutional amendment re the creation of an intermediate appellate court
  - Jurisdiction will be established by SC
  - Minimum of three judges, 6 year terms



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**Notes:** Pursuant to SB 234 passed during the 73rd Legislative Session in 2005, a study was conducted as to whether the State of Nevada would benefit from the establishment of an intermediate appellate court, report available on [www.nevadajudiciary.us](http://www.nevadajudiciary.us)

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This resolution proposes an amendment to the Nevada Constitution to allow the Legislature to establish an intermediate appellate court, known as the court of appeals. If the Legislature establishes the court of appeals, the court must consist of at least three judges. The initial judges will be elected at the first general election after the creation of the court, and each judge will be elected to serve a term of 6 years.

The court will have appellate jurisdiction in civil cases arising in district court and in criminal cases within the original jurisdiction of the district courts. The Nevada Supreme Court must fix the jurisdiction of the court and provide for the review of appeals decided by the court.

<https://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=242>,

**On File April 29, 2009, On 2010 General Election Ballot**

**Amends: Nevada Constitution Article 6 (new section); Article 6, Sections 1, 4, 7, 11, 15, 20, 21; Article 7, Section 3; Article 15, Section 8**

## Child Welfare

### SCR4

### Resolutions All Courts

- SCR 4 Child and Family Services
  - Focus on DCFS, Clark and Washoe counties
  - First goal: the development of a standardized practice model for providing child and family services with focus on preservation of family while insuring safe protection of children



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AOC Legislative Overview 2009

**Notes:** Additional goals: Assess disproportionate number of minority children in foster care, reduce number of kids in foster care, ensure that child abuse/neglect cases are properly investigated before child is removed from home, assess childrens' use of prescription medication while in state custody, and develop and implement an assessment to determine risk of allowing a child to remain in their home.

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This concurrent resolution urges certain agencies which provide child welfare services to develop

a standardized practice model and to address certain issues related to child and family services.  
<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=247>  
**Effective May 1, 2009**

## **Committees/Commissions**

**AB9 – Section 3 of this bill creates the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs as a statutory committee and provides for its membership.**

Section 4 of this bill provides for the meetings of the Committee, prescribes the manner in which meetings must be conducted and provides for the compensation of the members of the Committee. Section 5 of this bill authorizes the Committee to study and comment upon issues relating to senior citizens, veterans and adults with special needs and authorizes the Committee to conduct investigations and hold hearings.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=32>

**Effective July 1, 2009**

**AB85 – Existing law requires certain sex offenders to register with certain law enforcement agencies. (Chapter 179D of NRS) This bill creates an advisory committee to study state and federal laws concerning sex offender registration.** The advisory committee must consist of the Attorney General, one member of the Assembly appointed by the Speaker of the Assembly, one member of the Senate appointed by the Senate Majority Leader, representatives of law enforcement agencies, district attorneys' offices and public defenders' offices and a representative of the American Civil Liberties Union and any other organization authorized by the Attorney General to appoint a member of the advisory committee. The advisory committee must prepare and submit to the Legislative Commission a biennial report of its findings and recommendations for proposed legislation concerning sex offender registration.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=184>

**Effective May 19, 2009**

**SB79 – Sections 3-7 of this bill create the Nevada Commission on Services for Persons with Disabilities within the Office of Disability Services in the Department of Health and Human Services.** The duties of the Commission include determining and evaluating the needs of persons with disabilities in this State, promoting programs and services for such persons and recommending appropriate legislation concerning such persons. Section 9 of this bill restructures the Committee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities into a subcommittee of the Commission. (NRS 426.255) Similarly, section 12 of this bill restructures the Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities into a subcommittee of the Commission. (NRS 426.731)

Sections 15-21 of this bill amend provisions relating to the Commission on Mental Health and Developmental Services to include co-occurring disorders in the scope of powers and duties of the Commission and to require the Commission to create a subcommittee on the mental health of children. (NRS 433.314-433.327)

Under existing law, the members of the Advisory Committee in the Office of Minority Health of the Department of Health and Human Services, the Advisory Board on Maternal and Child Health and the Committee on Emergency Medical Services are appointed by the Governor. (NRS 232.482, 442.133, 450B.151)

Sections 14, 24 and 25 of this bill require the State Board of Health to appoint those members. Section 24 also provides that the legislative members of the Advisory Board on Maternal and Child Health are nonvoting members. Section 25 further amends the membership of the Committee on Emergency Medical Services to include an ex-officio member who is a



representative of a committee or group which focuses on the provision of emergency medical services to children.

Section 26 of this bill repeals provisions creating and governing the Task Force on Prostate Cancer and the Task Force on Cervical Cancer. (NRS 457.300-457.390) Section 27 of this bill provides that a person who, on July 1, 2009, is a member of a committee or board that is restructured, or the appointing authority for which is revised, by the provisions of this act may continue to serve until the expiration of his term.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=160>

**Effective July 1, 2009**

**SB371** – Existing law establishes various legislative committees that meet throughout the year, though primarily during the interim between regular legislative sessions. The Legislature also assigns studies to the Legislative Commission for completion during the interim. **This bill increases the authority of the Legislative Commission over committees established by statute and interim studies assigned to the Legislative Commission.** Sections 2, 4, 7, 8 and 11-13 of this bill establish beginning and ending dates for studies conducted by statutory committees or the Legislative Commission, unless otherwise ordered by the Legislative Commission. Section 8 also prohibits assignment of staff of the Legislative Counsel Bureau to committees not chaired by Legislators, except as otherwise required by statute.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=1007>

**Effective May 28, 2009**

## Pardons Board

SJR1

### Resolutions

#### All Courts

- SJR 1 Creation of Clemency Board
  - If passed, will replace the State Board of Pardons Commissioners
  - 9 members; 5 of whom must be experienced in criminal justice system
  - Organization/duties established by Legislature; quarterly meetings



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AOC Legislative Overview 2009

**Notes:** The Governor, the Chief Justice of the Supreme Court and the Attorney General shall appoint three members each to the Board.

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Under the Nevada Constitution and existing law, the State Board of Pardons Commissioners consists of the Governor, the justices of the Supreme Court and the Attorney General. (Nev. Const. Art. 5, § 14; NRS 213.010)

This joint resolution proposes to amend the Nevada Constitution to: (1) replace the State Board of Pardons Commissioners with the Clemency Board consisting of nine members appointed by the Governor, the Chief Justice of the Supreme Court and the Attorney General to carry out the duties currently carried out by the State Board of Pardons Commissioners; (2) provide that at least five members appointed to the Clemency Board must have experience

working in the criminal justice system; (3) require the Legislature to provide for the organization and duties of the Clemency Board; and (4) require the Clemency Board to meet at least quarterly. (Nev. Const. Art. 5, § 14)

<http://www.leg.state.nv.us/75th2009/reports/history.cfm?ID=252>

**On File May 22, 2009, Return to 2011 Session**

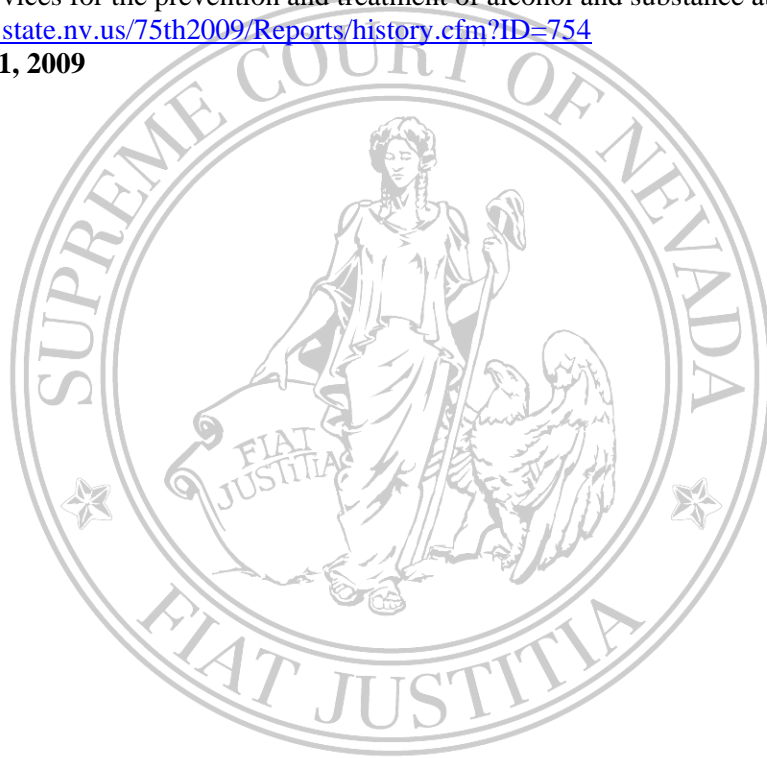
**Amends: Nevada Constitution Article 5, Section 14**

## **Studies**

**SB278 – This bill requires the Legislative Committee on Health Care to study:** (1) the feasibility of establishing a health district in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties); (2) the feasibility of consolidating or integrating certain health and social services provided in a county whose population is 400,000 or more (currently Clark County); and (3) the feasibility of establishing regional centers for the provision of services for the prevention and treatment of alcohol and substance abuse.

<http://www.leg.state.nv.us/75th2009/Reports/history.cfm?ID=754>

**Effective July 1, 2009**



# Index by Subject

## A note on using this index:

The bills in this index have been ordered alphabetically by subject (subcategory). For example, bills found earlier in this public under the 'Criminal' heading can be found herein, alphabetically, by the subcategory of criminal, i.e. Assault/Battery/DV.

The bills under each subject heading are then grouped by bill number, AB first, and then SB.

## Administrative Hearings/Penalties/Fees

[AB28](#) Revises provisions governing hearings conducted by the Department of Motor Vehicles.

**Page 3**

[AB87](#) Revises provisions concerning the collection of debts owed to the State.

**Pages 3 and 4**

[SB76](#) Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies.

**Pages 4 and 5**

[SB151](#) Provides for the payment of certain claims from the Recovery Fund of the State Contractors' Board.

**Page 5**

[SB362](#) Clarifies and revises provisions related to the suspension or revocation of professional licenses by health care professional licensing boards.

**Page 5**

## ADR

[AB48](#) Allows a public body to resolve disputes in a contract for a public work by way of processes other than arbitration.

**Page 6**

## Alcohol

[AB432](#) Revises provisions governing alcohol-c beverage awareness programs.

**Page 130**

## Animals

[AB15](#) Revises provisions governing sterilization requirements for dogs and cats.

**Page 15**

[AB199](#) Revises provisions relating to fights between animals

**Page 15**

[SB132](#) Revises provisions governing the treatment of animals.

**Page 16**

## Appraisal

[AB287](#) Makes various changes concerning appraisals of real estate.

**Page 118**

## **Appropriations/Budget**

[AB543](#) Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund and revises the provisions governing the imposition and use of a supplemental governmental services tax in certain counties.  
**Page 111**

[AB552](#) Makes various changes regarding certain tax collection allowances and the payment of certain taxes to the State.  
**Page 112**

[AB563](#) Ensures sufficient funding for K-12 public education for the 2009-2011 biennium.  
**Page 112**

[SB245](#) Makes various changes relating to regional transportation commissions.  
**Pages 112 and 113**

[SB340](#) Revises provisions governing the allocation of certain money from the Fund for a Healthy Nevada.  
**Page 113**

[SB408](#) Authorizes payments from the Patriot Relief Account in the State General Fund to certain members of the Nevada National Guard who return from deployment in a combat zone.  
**Page 113**

[SB431](#) Authorizes expenditures by agencies of the State Government.  
**Page 113**

## **Article 6 Changes**

[SJR2\\*](#) Proposes to amend the Nevada Constitution to revise provisions relating to the selection of justices and judges.  
**Page 138**

[SJR9\\*](#) Proposes to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court.  
**Page 139**

## **Assault/Battery/DV**

[AB93](#) Revises the definition of the crime of assault.  
**Page 17**

[AB164](#) Revises certain provisions concerning the crime of battery.  
**Pages 17 and 18**

[AB253](#) Revises the crime of resisting, delaying or obstructing a public officer in the discharge of his duties.  
**Page 18**

[AB384](#) Revises provisions governing certain unlawful acts committed by prisoners.  
**Pages 18 and 19**

## **Bail Bonds**

[AB462](#) Revises the provisions governing sureties.

**Page 78**

## **Boating**

[AB73](#) Makes various changes to provisions governing watercraft.

**Page 19**

## **Central Repository**

[SB28](#) Revises reporting requirements concerning missing persons and unidentified dead bodies.

**Page 114**

## **Child Care Facilities**

[AB89](#) Revises provisions governing the regulation of licensed child care facilities.

**Page 62**

[AB103](#) Provides for the audit, inspection, review and survey of certain facilities for children.

**Pages 62 and 63**

## **Child Custody/Adoption/Child Placement**

[AB59](#) Creates a rebuttable presumption against an award of custody or unsupervised visitation for any person who has abducted a child in the past.

**Pages 63 and 64**

[AB76](#) Revises provisions governing the placement of children who are in the custody of an agency which provides child welfare services.

**Page 64**

[AB500](#) Revises provisions relating to domestic relations.

**Page 65**

[SB342](#) Expands the relatives who receive preference when a child is placed in the custody of a person other than the parent of the child by a court, an agency which provides child welfare services or other person.

**Pages 65 and 66**

## **Child Support**

[AB101](#) Revises provisions governing the support of children.

**Pages 66 and 67**

[AB280](#) Enacts revisions to the Uniform Interstate Family Support Act.

**Page 68**



## **Child Welfare**

[SCR4](#) Urges certain agencies which provide child welfare services to develop a standardized practice model and to address certain issues related to child and family services.

**Pages 139 and 140**

## **Civil Filing Fees/Court Funding/More Judges**

[AB64](#) Increases the number of judges in the Second and Eighth Judicial Districts.

**Pages 78 and 79**

[AB65](#) Provides for the collection and disposition of additional court fees.

**Pages 79 and 80**

[AB531](#) Revises provisions governing the distribution of the proceeds of certain administrative assessments.

**Page 80**

[SB433](#) Provides for salaries of certain state employees and provides for furloughs for certain public employees.

**Page 81**

## **Commercial/Financial/Trade Practices/Personal Info.**

[AB90](#) Revises certain provisions concerning the investigation and prosecution of deceptive trade practices.

**Page 19**

[AB233](#) Makes various changes concerning scrap metal.

**Pages 19 and 20**

[AB322](#) Makes various changes concerning conduct related to racketeering.

**Pages 20 and 21**

[AB389](#) Revises provisions governing the protection of personal identifying information.

**Page 21**

[SB82](#) Makes various changes relating to prepaid or stored value cards.

**Pages 21 and 22**

[SB125](#) Makes changes relating to personal identifying information.

**Page 22**

[SB193](#) Revises provisions governing dealers in antiques.

**Page 22**

[SB223](#) Revises the provisions relating to certain crimes involving credit cards and debit cards.

**Page 22**

### **Committees/Commissions**

[AB9](#) Creates the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs.  
**Page 140**

[AB85](#) Provides for the formation of a committee to study laws concerning sex offender registration.  
**Page 140**

[SB79](#) Revises provisions governing various commissions, boards and committees relating to health.  
**Pages 140 and 141**

[SB371](#) Makes various changes relating to interim studies and statutory committees of the Legislature.  
**Page 141**

### **Common Interest Communities**

[AB129](#) Revises provisions governing common-interest communities.  
**Page 118**

[AB204](#) Revises provisions relating to common-interest communities.  
**Pages 118 and 119**

[AB251](#) Revises provisions relating to common-interest communities  
**Page 119**

[AB311](#) Revises provisions governing the financial statements of common-interest communities.  
**Page 119**

[AB361](#) Makes changes relating to common-interest communities.  
**Page 120**

[SB216](#) Revises provisions regarding the addition of shutters in common-interest communities.  
**Page 120**

[SB253](#) Makes various changes to provisions relating to common-interest communities.  
**Pages 120 and 121**

[SB261](#) Makes various changes relating to common-interest ownership.  
**Page 121**

[SB351](#) Makes various changes relating to common-interest communities.  
**Page 122**

### **Conceal and Carry**

[AB230](#) Revises the provisions governing the carrying of a concealed firearm.  
**Page 100**

## **Court Records**

[AB46](#) Makes various changes concerning the right of certain persons to purchase or possess a firearm.  
**Pages 82 and 83**

[AB497](#) Provides for the collection and sharing of certain statistical data and information relating to the criminal justice system.  
**Page 83**

## **Court Reporters**

[AB509](#) Makes various changes to provisions governing certified court reporters.  
**Pages 83 and 84**

## **Credit Card Fee Collection**

[AB548](#) Revises the provisions governing the fees charged by certain governmental entities for accepting payments by credit cards, debit cards and electronic transfers of money.  
**Page 84**

## **Disclosures**

[SB106](#) Revises provisions governing the purchase of a home or lot that is adjacent to open range.  
**Page 122**

## **Discrimination**

[SB207](#) Revises provisions relating to unlawful discrimination in places of public accommodation.  
**Page 117**

## **Domestic Partnership**

[SB283](#) Revises provisions governing the rights of domestic partners.  
**Page 69**

## **Drug Endangered Children**

[AB337](#) Creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General.  
**Page 130**

## **Elder Issues/Ombudsman**

[AB176](#) Revises provisions relating to administrators of facilities for long-term care.  
**Page 98**

[AB254](#) Makes the Ombudsman of Consumer Affairs for Minorities a permanent position within the Office of the Director of the Department of Business and Industry.  
**Page 98**

[SB65](#) Revises certain provisions relating to advocacy for residents of facilities for long-term care.  
**Pages 98 and 99**

### **Electronic Transmission of Ballots**

[AB41](#) Makes various changes to voter registration and voting procedures for certain members of the Armed Forces of the United States and certain members of their families, and certain other voters who reside outside the United States.

**Page 58**

### **Financial**

[AB177](#) Revises provisions concerning short-term leases of passenger cars.

**Page 6**

[AB472](#) Revises provisions concerning the collection of credit card debt.

**Pages 6 and 7**

[SB348](#) Revises certain provisions of the Uniform Principal and Income Act (1997).

**Page 7**

### **Foreclosure/Mortgage/Brokers/Escrow**

[AB140](#) Makes various changes to provisions relating to foreclosures of real property.

**Pages 122 and 123**

[AB144](#) Revises various provisions relating to loans secured by liens on real property.

**Pages 123 and 124**

[AB149](#) Revises provisions governing foreclosures on property.

**Pages 124 and 125**

[AB151](#) Makes various changes concerning mortgage lending.

**Page 125**

[AB152](#) Makes various changes concerning mortgage lending and related professions.

**Pages 125 and 126**

[AB471](#) Revises provisions relating to the sale of real property.

**Page 126**

[AB486](#) Makes various changes to provisions relating to mortgage lending.

**Pages 126 and 127**

[AB513](#) Makes various changes to provisions governing licensing of escrow agencies and mortgage brokers, agents and bankers.

**Page 127**

[SB333](#) Makes various changes relating to real property.

**Pages 127 and 128**

### **Foster Care**

[AB227](#) Revises provisions relating to the provision of foster care.

**Pages 69 and 70**

## **Guardianship**

[AB230](#) Revises the provisions governing the carrying of a concealed firearm.  
**Pages 70 and 71**

[SB287](#) Makes various changes concerning personal financial administration.  
**Pages 72 and 73**

[SB313](#) Revises provisions relating to guardianships.  
**Pages 73 and 74**

## **Health Care/Physicians/Surgery Center**

[AB10](#) Makes various changes concerning certain health care professionals who report certain information to licensing boards or other governmental entities or who cooperate in investigations of certain health care professionals.  
**Pages 1 and 2**

[AB196](#) Revises provisions relating to the licensure of facilities for refractive surgery.  
**Page 2**

[SB268](#) Makes various changes to provisions governing occupational licensing boards.  
**Page 3**

## **Homestead**

[SB67](#) Revises provisions governing declarations of homestead.  
**Page 128**

## **Identity Theft**

[AB27](#) Clarifies requirements and procedures for obtaining a Nevada identity theft passport.  
**Page 3**

## **Judicial Discipline**

[AB496](#) Revises provisions governing judicial discipline.  
**Page 59**

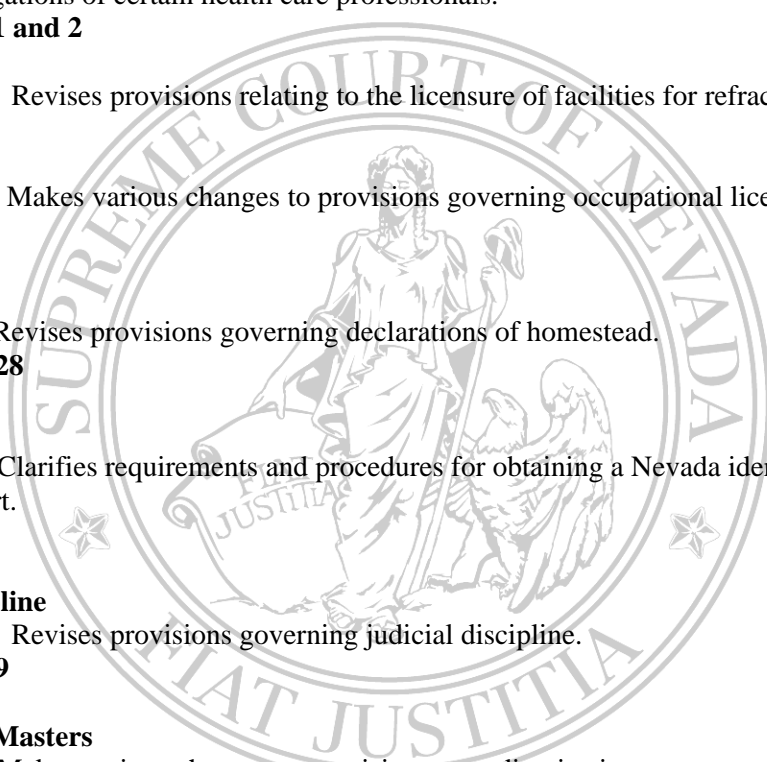
## **Justice Court Masters**

[AB63](#) Makes various changes to provisions regarding justice courts.  
**Pages 84 and 85**

## **Juvenile Certification**

[AB237](#) Revises the provisions governing the certification of certain juveniles as adults for criminal proceedings.  
**Page 92**

[SB235](#) Revises the provisions relating to the jurisdiction of the juvenile court over certain offenses.  
**Page 93**





### **Juvenile Sex Offenders**

[AB81](#) Makes various changes relating to the Central Repository for Nevada Records of Criminal History.  
**Pages 94 and 95**

### **Landlord/Tenant**

[AB477](#) Exempts a person who works for a landlord of a dwelling unit used for a residence for older persons from an additional background check.  
**Page 11**

[AB512](#) Revises provisions relating to security deposits for the rental of real property.  
**Page 128**

### **Legislature**

[AB231](#) Exempts certain veterans from the requirement to pay any fee established for registration as an uncompensated lobbyist.  
**Page 100**

[AB535](#) Makes various changes relating to the Legislature and the Legislative Counsel Bureau.  
**Page 100**

[SB160](#) Makes various changes relating to public officers and employees.  
**Pages 101, 102, 103, and 104**

[SB161](#) Revises provisions governing the Nevada Youth Legislative Issues Forum.  
**Pages 104 and 105**

### **Liability**

[AB332](#) Revises provisions governing immunity from liability for donating, receiving or distributing certain grocery products or food.  
**Page 11**

### **License Plates**

[AB29](#) Revises provisions governing the use of money in the Account for License Plates for the Promotion of Agriculture Within This State.  
**Page 116**

[AB172](#) Requires certain charitable organizations which receive proceeds from special license plates to provide additional organizational information annually to certain entities.  
**Page 116**

[SB139](#) Provides for the issuance of special license plates for family members of persons killed in the line of duty while on active duty in the Armed Forces of the United States.  
**Page 116**

### **Manufacture of Drugs/Safe Habitation**

[SB60](#) Revises provisions governing buildings and other property that has been used in crimes involving methamphetamine or certain other substances.  
**Pages 130 and 131**

## Marriage

[AB262](#) Makes various changes concerning marriage.

**Page 7**

[SB14](#) Makes various changes to fees relating to a marriage license that fund the Account for Aid for Victims of Domestic Violence.

**Pages 7 and 8**

[SB130](#) Revises certain provisions governing certificates of permission to perform marriages.

**Page 8**

## Mental Health

[AB6](#) Revises provisions governing certain emergency admissions to mental health facilities and hospitals.

**Page 1**

## Mining

[SB108](#) Revises provisions governing the placement of markers on lode mining claims.

**Pages 128 and 129**

## Miscellaneous Crimes

[AB132](#) Revises certain provisions relating to an award of damages in an action for forcible or unlawful entry or detention of real property.

**Page 23**

[AB182](#) Makes various changes concerning crimes involving explosives.

**Page 23**

[AB266](#) Prohibits the sale of novelty lighters.

**Page 24**

[AB286](#) Revises the provisions governing the crime of trespassing.

**Page 24**

[AB461](#) Makes various changes relating to older persons.

**Page 25**

[AB481](#) Revises provisions relating to certain crimes involving firearms, ammunition or explosives.

**Pages 25 and 26**

## Municipal Elections

[AB39](#) Revises the provisions of the North Las Vegas City Charter governing primary municipal elections.

**Page 60**

[AB79](#) Revises provisions concerning city elections.

**Pages 60 and 61**

## Notary

[SB92](#) Makes various changes relating to the regulation of notaries public.

**Pages 11 and 12**

## Official State/Observances/Historical

[AB180](#) Designates Engine No. 40 of the Nevada Northern Railway as an official state locomotive of the State of Nevada.

**Page 99**

[AB301](#) Requires the Governor to proclaim March 31 as “Cesar Chavez Day” in the State of Nevada.

**Page 99**

[SB166](#) Designates the official state insect of Nevada.

**Page 99**

[SB256](#) Designates an area on the grounds of Northern Nevada Adult Mental Health Services as a historic cemetery.

**Pages 99 and 100**

## Pardons Board

[SJR1](#) Proposes to amend the Nevada Constitution to replace the State Board of Pardons Commissioners with the Clemency Board and to require the Legislature to provide for the organization and duties of the Clemency Board.

**Pages 141 and 142**

## Partnerships/Corporations/Resident Agents

[SB335](#) Revises provisions regarding regulation of accountants.

**Page 13**

[SB350](#) Makes various changes relating to business.

**Pages 13 and 14**

## PERS

[SB174](#) Exempts certain retired public employees who are serving as volunteer firefighters from certain consequences of reemployment with a public employer.

**Pages 116 and 117**

## Planning/Zoning

[AB294](#) Directs the Legislative Commission to conduct an interim study concerning group homes.

**Page 129**

[AB304](#) Makes various changes relating to the preservation and improvement of existing neighborhoods.

**Page 129**

## Power of Attorney

[SB314](#) Adopts the Uniform Power of Attorney Act.

**Pages 12 and 13**

## **Prescription Drugs**

[AB236](#) Revises provisions governing grants of money for water conservation and capital improvements to certain water systems.

**Page 131**

[AB370](#) Makes various changes to provisions governing pharmacies.

**Pages 131 and 132**

[AB538](#) Transfers the program for the medical use of marijuana from the State Department of Agriculture to the Health Division of the Department of Health and Human Services.

**Page 132**

## **Primary Date**

[SB162](#) Revises the date of the primary election and provisions governing voter registration by mail.

**Page 61**

## **Procedure (Criminal)**

[AB250](#) Revises provisions relating to certain affidavits or declarations of experts.

**Page 26**

[AB499](#) Revises provisions relating to discovery in criminal proceedings.

**Page 27**

[SB34](#) Makes certain changes concerning the use of court reporters in certain court proceedings.

**Page 27**

[SB35](#) Revises provisions relating to the prosecution of certain offenses.

**Page 28**

[SB45](#) Revises provisions relating to certain criminal cases involving older persons and vulnerable persons.

**Page 28**

[SB84](#) Authorizes cities to create departments of alternative sentencing.

**Pages 28 and 29**

## **Public Nuisance/Gangs**

[AB335](#) Makes various changes relating to nuisances and criminal gangs.

**Pages 29 and 30**

[AB353](#) Makes various changes concerning certain crimes related to property.

**Pages 30 and 31**

[SB142](#) Establishes the crime of criminal gang recruitment.

**Page 31**

## **Retirement/PERS/JRS**

[AB92](#) Revises the provisions governing the benefits of a retired justice or judge.  
**Page 85**

[AB488](#) Revises provisions governing the employment of retired public employees.  
**Page 86**

[SB41](#) Makes various changes to provisions relating to public retirement systems.  
**Page 87**

[SB103](#) Revises provisions relating to the Public Employees' Benefits Program.  
**Pages 87, 88, and 89**

[SB415](#) Establishes for the next biennium the amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees.  
**Page 89**

[SB427](#) Revises provisions governing public employees.  
**Pages 89, 90, and 91**

## **Rural/Government/Government Relations**

[AB54](#) Authorizes certain counties to establish programs to provide financial assistance to certain persons.  
**Page 105**

[AB96](#) Clarifies eligibility for and the administration of Millennium Scholarships for students who are enrolled in more than one eligible institution.  
**Page 105**

[AB97](#) Requires the establishment of procedures for transferring governmental functions between and among local governments and state agencies.  
**Page 106**

[AB192](#) Revises provisions governing certain performance contracts for operating cost-savings measures.  
**Page 106**

[AB225](#) Revises certain provisions relating to county fire departments.  
**Pages 106 and 107**

[AB329](#) Provides funding for recreational facilities in certain smaller counties.  
**Page 109**

[AB415](#) Makes various changes concerning the organization of county offices in certain smaller counties.  
**Page 107**

[AB463](#) Restricts a department, division or other agency of this State from employing a person as a consultant.  
**Page 108**



[AB510](#) Revises various provisions governing the Public Utilities Commission of Nevada.

**Page 108**

[SB59](#) Revises provisions governing telephone systems used for reporting emergencies in certain counties.

**Pages 108 and 109**

[SB144](#) Enacts provisions governing public safety bomb squads.

**Page 109**

[SB147](#) Establishes provisions governing broadcasters during emergencies.

**Pages 109 and 110**

[SB186](#) Provides for the issuance of permits for the operation of facilities for the management of waste tires.

**Pages 110 and 111**

[SB304](#) Revises provisions relating to tests for certain communicable diseases.

**Page 111**

#### **School Crime**

[AB56](#) Revises provisions governing pupils with disabilities.

**Pages 31 and 32**

[AB154](#) Revises provisions governing the policies of school districts relating to criminal gang activity.

**Page 32**

[SB163](#) Revises provisions governing safe and respectful learning environments in public schools to prohibit bullying and cyber-bullying.

**Page 32**

#### **Schools**

[AB100](#) Revises provisions governing education.

**Pages 114 and 115**

[AB191](#) Revises provisions governing certain examinations of the height and weight of pupils.

**Page 115**

[SB77](#) Provides for the establishment of programs of teen mentoring in public high schools.

**Page 115**

[SB209](#) Revises provisions governing the Governor Guinn Millennium Scholarship Program.

**Pages 115 and 117**

## **Sentencing/Parole/Probation/Post-Conviction**

[AB105](#) Makes various changes concerning genetic marker testing of certain criminal defendants.

**Pages 33 and 34**

[AB117](#) Makes various changes relating to parole hearings.

**Page 34**

[AB168](#) Revises sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other offenses.

**Pages 34 and 35**

[AB179](#) Revises provisions governing post-conviction genetic marker analysis.

**Page 35**

[AB239](#) Revises provisions relating to habitual criminals.

**Page 36**

[AB259](#) Makes various changes relating to criminal offenders.

**Pages 36 and 37**

[AB264](#) Revises provisions relating to defendants who are incompetent.

**Pages 37 and 38**

[AB279](#) Requires the preservation of certain biological evidence under certain circumstances.

**Page 38**

[AB474](#) Revises parole eligibility for certain offenders.

**Page 39**

[SB44](#) Designates certain employees of the Department of Corrections as category II peace officers.

**Page 39**

[SB236](#) Revises provisions relating to certain programs for persons released from incarceration.

**Page 40**

[SB238](#) Revises certain provisions relating to the restoration of civil rights for certain criminal offenders.

**Pages 40 and 41**

## **Sex Offenses/Prostitution/TPO**

[AB88](#) Makes various changes relating to child pornography.

**Page 41**

[AB120](#) Makes changes concerning orders for protection of victims of sexual assault.

**Pages 41 and 42**

[AB238](#) Increases the penalty for soliciting a child for prostitution.  
**Page 42**

[AB309](#) Revises provisions relating to crimes.  
**Page 43**

[AB325](#) Revises provisions relating to sex offenders.  
**Page 43**

[AB380](#) Makes various changes relating to the sexual exploitation of children.  
**Page 44**

### **Specialty Courts**

[AB47](#) Revises provisions relating to specialty courts.  
**Pages 132 and 133**

[AB102](#) Revises provisions governing problem gambling.  
**Page 133**

[AB187](#) Authorizes the establishment by district courts of a program for the treatment of certain offenders who are veterans or members of the military.  
**Page 134**

### **Studies**

[SB278](#) Requiring the Legislative Committee on Health Care to study certain issues concerning the provision of health care.  
**Page 142**

### **Subcommittee on Juvenile Justice**

[SB113](#) Makes various changes relating to the Advisory Commission on the Administration of Justice.  
**Page 95**

### **Traffic/DMV/Motor Vehicles/DUI**

[AB25](#) Revises provisions governing examinations of applicants for a Nevada driver's license.  
**Page 44**

[AB109](#) Revises provisions governing special license plates.  
**Pages 44 and 45**

[AB163](#) Authorizes certain governmental entities to adopt regulations or ordinances to allow certain low emission and energy-efficient vehicles to be operated in designated lanes.  
**Page 45**

[AB169](#) Makes various changes concerning the regulation of motor carriers.  
**Page 46**

[AB209](#) Revises provisions governing the attendance of certain offenders at meetings of panels of victims of crimes relating to driving under the influence.  
**Page 46**

[AB247](#) Revises provisions governing the operation of bicycles.  
**Page 46**

[AB296](#) Revises provisions governing certain nonprofit carriers of elderly persons or persons with disabilities.  
**Page 46**

[AB333](#) Revises certain provisions relating to motor vehicles.  
**Page 47**

[AB372](#) Makes various changes concerning registration of commercial motor vehicles.  
**Pages 47 and 48**

[AB407](#) Increases the fee for reinstatement of a driver's license or commercial driver's license.  
**Page 48**

[AB412](#) Makes certain changes concerning the towing of occupied vehicles.  
**Page 48**

[AB417](#) Revises provisions governing the operation of vehicles.  
**Page 48**

[AB441](#) Revises provisions governing transportation.  
**Page 48**

[AB475](#) Makes various changes concerning the revision of statutes.  
**Pages 49 and 50**

[SB100](#) Revises the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence.  
**Page 50**

[SB134](#) Revises provisions concerning the increased penalty imposed for certain traffic violations occurring in work zones.  
**Page 51**

[SB199](#) Revises provisions governing the weighing of farm vehicles for purposes of vehicle registration.  
**Page 51**

[SB217](#) Enacts provisions relating to the Department of Motor Vehicles and registration under the federal Military Selective Service Act.  
**Pages 51 and 52**

[SB240](#) Provides for the evaluation and establishment of the maximum speed on certain portions of State Route 159.  
**Page 52**

[SB243](#) Requires local law enforcement agencies to enforce certain state laws.  
**Page 52**

[SB251](#) Revises certain provisions governing vehicles.  
**Page 53**

[SB360](#) Revises provisions governing the sale and title of salvage vehicles.  
**Page 54**

[SB394](#) Makes various changes to provisions relating to off-highway vehicles.  
**Pages 54 and 55**

#### **Treatment/DCFS**

[AB364](#) Makes various changes concerning the protection of children.  
**Pages 96 and 97**

#### **Victim Compensation**

[AB114](#) Makes changes concerning compensation to victims of crime.  
**Page 135**

[AB116](#) Revises provisions concerning compensation for victims of crime.  
**Pages 135 and 136**

[AB283](#) Revises provisions governing the payment of compensation to certain victims of crime.  
**Pages 136**

#### **Victim Notification**

[AB61](#) Requires notification of certain victims of crime of the discharge, conditional release or escape of certain persons from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services.  
**136 and 137**

#### **Wildlife/Hunting/Fishing**

[AB194](#) Makes various changes to provisions governing master guides and subguides.  
**Pages 55 and 56**

[AB246](#) Makes various changes relating to hunting.  
**Pages 56 and 57**

#### **Wills/Probate**

[SB141](#) Enacts the Uniform International Wills Act.  
**Page 75**

[SB277](#) Revises various provisions relating to estates.  
**Pages 76 and 77**

#### **Worker's Comp./Unemployment/Employment/Insurance**

[AB243](#) Requires certain employers to grant leave to parents, guardians and custodians of children to participate in certain school activities.  
**Pages 8 and 9**



[AB281](#) Makes various changes concerning workers' compensation.  
**Pages 9 and 10**

[AB338](#) Authorizes a program to provide grants to nonprofit private entities concerning small business start-ups for veterans and senior citizens.  
**Page 10**

[AB410](#) Makes various changes concerning workers' compensation.  
**Page 10**

[SB426](#) Revises provisions relating to insurance.  
**Pages 10 and 11**

