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SECOND REPRINT

A.B. 158

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

FEBRUARY 18, 2021

JOINT SPONSORS: SENATORS D. HARRIS AND BROOKS

Referred to Committee on Judiciary

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

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

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

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

Legislative Counsel's Digest:

1 Existing law makes it a misdemeanor for a person who is under 21 years of age
2 to: (1) purchase, consume or possess alcohol; (2) falsely represent himself or
3 herself to be 21 years of age to obtain alcohol; or (3) falsely represent himself or
4 herself to be 21 years of age or older to obtain cannabis. (NRS 202.020, 202.040,
5 678D.310) Additionally, existing law makes it a misdemeanor to possess 1 ounce
6 or less of marijuana without being authorized to possess cannabis. (NRS 453.336)
7 Existing law provides that unless the statute in force at the time of commission of a
8 misdemeanor prescribes a different penalty, a misdemeanor is punishable by



9 imprisonment in the county jail for not more than 6 months, or by a fine of not
10 more than \$1,000, or by both fine and imprisonment. (NRS 193.150)

11 **Sections 1, 2, 3 and 4** of this bill revise the penalties for a violation of each
12 such offense. **Sections 1, 2, 3 and 4**, respectively, provide that a person: (1) is not
13 subject to imprisonment in the county jail or a fine; and (2) must perform not more
14 than 24 hours of community service, attend a meeting of a panel of victims of
15 persons injured or killed by a person who was driving under the influence of
16 alcohol or a controlled substance or undergo an evaluation to determine whether the
17 person has an alcohol or other substance use disorder, or any combination thereof.

18 **Sections 1, 2, 3 and 4**, respectively, also require the court to automatically seal
19 records relating to such convictions if the offender completes the terms and
20 conditions imposed by the court.

21 Existing law defines "child," for the purposes of juvenile justice, as a person
22 who is: (1) less than 18 years of age; (2) less than 21 years of age and is subject to
23 the jurisdiction of the juvenile court for an unlawful act committed before the
24 person reached 18 years of age; or (3) subject to the jurisdiction of the juvenile
25 court as a juvenile sex offender. (NRS 62A.030) **Section 2.8** of this bill: (1)
26 establishes penalties for certain unlawful acts relating to the possession or
27 consumption of alcohol or the possession of less than 1 ounce of marijuana
28 committed by children; and (2) requires a child who commits such unlawful acts to
29 be punished in accordance with the penalties for children instead of those penalties
30 set forth in **section 1 or 3**. **Section 2.8** provides that a child who commits such
31 unlawful acts is, for a first or second offense, a child in need of supervision and is
32 not a delinquent child.

33 Existing law establishes the jurisdiction of juvenile courts. (NRS 62B.320)
34 **Section 2.2** of this bill expands the jurisdiction of juvenile courts to include
35 offenses committed by children relating to the possession or consumption of
36 alcohol or offenses relating to possessing 1 ounce or less of marijuana. **Section 2.4**
37 of this bill makes a conforming change relating to the jurisdiction of juvenile
38 courts.

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

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

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

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

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

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



1 (c) *Being required to undergo an evaluation in accordance*
2 *with subsection 2 of NRS 484C.350,*
3 *↳ or any combination thereof.*

4 2. Except as otherwise provided in this section, a person under
5 21 years of age who, for any reason, possesses any alcoholic
6 beverage in public is guilty of a misdemeanor ~~§~~ *and shall be*
7 *punished by:*

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

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

12 (c) *Being required to undergo an evaluation in accordance*
13 *with subsection 2 of NRS 484C.350,*
14 *↳ or any combination thereof.*

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

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

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

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

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

38 (d) Cooperates with any provider of emergency medical
39 assistance, any other health care provider who assists the person
40 who may be in need of emergency medical assistance because of
41 alcohol consumption and any law enforcement officer.

42 ~~§~~ 5. A person under 21 years of age for whom another
43 person requests emergency medical assistance pursuant to
44 subsection ~~§~~ 4 is not subject to the criminal penalty set forth in
45 subsection 1 for consuming an alcoholic beverage or subsection 2.



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

4 (a) Requests emergency medical assistance because he or she
5 reasonably believes that he or she is in need of medical assistance
6 because of alcohol consumption; and

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

10 ~~{6.}~~ 7. This section does not preclude a local governmental
11 entity from enacting by ordinance an additional or broader
12 restriction, except that any such ordinance must not conflict with the
13 provisions of subsection ~~{3, 4 or}~~ 4, 5 or 6 or create criminal liability
14 for a person to whom an exemption set forth in subsection ~~{3, 4 or}~~
15 4, 5 or 6 applies.

16 ~~{7.}~~ 8. For the purposes of this section, possession "in public"
17 includes possession:

18 (a) On any street or highway;

19 (b) In any place open to the public; and

20 (c) In any private business establishment which is in effect open
21 to the public.

22 ~~{8.}~~ 9. The term does not include:

23 (a) Possession for an established religious purpose;

24 (b) Possession in the presence of the person's parent, spouse or
25 legal guardian who is 21 years of age or older;

26 (c) Possession in accordance with a prescription issued by a
27 person statutorily authorized to issue prescriptions;

28 (d) Possession in private clubs or private establishments; or

29 (e) The selling, handling, serving or transporting of alcoholic
30 beverages by a person in the course of his or her lawful employment
31 by a licensed manufacturer, wholesaler or retailer of alcoholic
32 beverages.

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

34 202.040 ~~{Every minor}~~

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

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

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

43 *(c) Being required to undergo an evaluation in accordance*
44 *with subsection 2 of NRS 484C.350,*

45 *↳ or any combination thereof.*



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

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

11 62B.320 1. Except as otherwise provided in this title, the
12 juvenile court has exclusive original jurisdiction in proceedings
13 concerning any child living or found within the county who is
14 alleged or adjudicated to be in need of supervision because the
15 child:

16 (a) Is subject to compulsory school attendance and is a habitual
17 truant from school;

18 (b) Habitually disobeys the reasonable and lawful demands of
19 the parent or guardian of the child and is unmanageable;

20 (c) Deserts, abandons or runs away from the home or usual
21 place of abode of the child and is in need of care or rehabilitation;

22 (d) Uses an electronic communication device to transmit or
23 distribute a sexual image of himself or herself to another person or
24 to possess a sexual image in violation of NRS 200.737;

25 (e) Transmits or distributes an image of bullying committed
26 against a minor in violation of NRS 200.900;

27 (f) Violates a county or municipal ordinance imposing a curfew
28 on a child;

29 (g) Violates a county or municipal ordinance restricting loitering
30 by a child; ~~or~~

31 (h) Commits an offense related to tobacco ~~or~~; **or**

32 **(i) Commits an alcohol or marijuana offense that is**
33 **punishable pursuant to paragraph (a) of subsection 1 of section**
34 **2.8 of this act.**

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

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

42 4. As used in this section:

43 (a) **"Alcohol or marijuana offense" has the meaning ascribed**
44 **to it in section 2.8 of this act.**



1 (b) "Bullying" means a willful act which is written, verbal or
2 physical, or a course of conduct on the part of one or more persons
3 which is not otherwise authorized by law and which exposes a
4 person one time or repeatedly and over time to one or more negative
5 actions which is highly offensive to a reasonable person and:

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

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

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

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

14 ~~[(b)]~~ (c) "Electronic communication device" has the meaning
15 ascribed to it in NRS 200.737.

16 ~~[(e)]~~ (d) "Sexual image" has the meaning ascribed to it in
17 NRS 200.737.

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

19 62B.330 1. Except as otherwise provided in this title, the
20 juvenile court has exclusive original jurisdiction over a child living
21 or found within the county who is alleged or adjudicated to have
22 committed a delinquent act.

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

25 (a) Violates a county or municipal ordinance other than those
26 ~~specified~~ :

27 (1) *Specified* in paragraph (f) or (g) of subsection 1 of NRS
28 62B.320 ~~[(e)]~~ ;

29 (2) *Concerning* an offense related to tobacco; *or*

30 (3) *Relating to the consumption or possession of alcohol or*
31 *the possession of 1 ounce or less of marijuana that are punishable*
32 *pursuant to paragraph (a) of subsection 1 of section 2.8 of this*
33 *act*;

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

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

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

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



1 (b) Sexual assault or attempted sexual assault involving the use
2 or threatened use of force or violence against the victim and any
3 other related offense arising out of the same facts as the sexual
4 assault or attempted sexual assault, regardless of the nature of the
5 related offense, if:

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

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

11 (c) An offense or attempted offense involving the use or
12 threatened use of a firearm and any other related offense arising out
13 of the same facts as the offense or attempted offense involving the
14 use or threatened use of a firearm, regardless of the nature of the
15 related offense, if:

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

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

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

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

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

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

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

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



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

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

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

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

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

12 (c) *A violation of subsection 4 of NRS 453.336 for possession*
13 *of 1 ounce or less of marijuana; or*

14 (d) *A violation of a city or county ordinance relating to the*
15 *possession of 1 ounce or less of marijuana.*

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

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

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

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

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

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

28 (II) *A treatment facility; or*

29 (III) *A shelter designed to assist children who run away*
30 *from their parent or guardian or are victims of sex trafficking,*
31 *other than a shelter used for the protection of children pursuant to*
32 *the provisions of chapter 432B of NRS.*

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

36 (a) *The receipt shall be deemed personal service of the notice*
37 *to appear in court;*

38 (b) *A copy of the citation signed by the peace officer suffices as*
39 *proof of service; and*

40 (c) *The peace officer shall not take the child into physical*
41 *custody for the violation.*

42 *4. At the time that a child is issued a citation pursuant to*
43 *subsection 1, the peace officer shall make reasonable attempts to*
44 *notify a parent or guardian of the child, and a peace officer shall*



1 *not take the child into custody by reason alone of being unable to*
2 *contact the parent or child of the guardian.*

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

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

6 *(a) For a first or second offense:*

7 *(1) The child is a child in need of supervision and is not a*
8 *delinquent child, and the child must be placed under informal*
9 *supervision pursuant to NRS 62C.200; and*

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

12 *(b) For a third or subsequent offense, a district attorney may*
13 *file a petition alleging delinquency.*

14 *2. As used in this section, "alcohol or marijuana offense"*
15 *means:*

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

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

19 *(c) A violation of subsection 4 of NRS 453.336 for possession*
20 *of 1 ounce or less of marijuana; or*

21 *(d) A violation of a city or county ordinance relating to the*
22 *possession of 1 ounce or less of marijuana.*

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

24 453.336 1. Except as otherwise provided in subsection 5, a
25 person shall not knowingly or intentionally possess a controlled
26 substance, unless the substance was obtained directly from, or
27 pursuant to, a prescription or order of a physician, physician
28 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
29 podiatric physician, optometrist, advanced practice registered nurse
30 or veterinarian while acting in the course of his or her professional
31 practice, or except as otherwise authorized by the provisions of NRS
32 453.005 to 453.552, inclusive.

33 2. Except as otherwise provided in subsections 3 and 4 and in
34 NRS 453.3363, and unless a greater penalty is provided in NRS
35 212.160, 453.3385 or 453.339, a person who violates this section:

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

44 (b) For a third or subsequent offense, if the controlled substance
45 is listed in schedule I or II and the quantity possessed is less than 14



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

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

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

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

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

36 4. Unless a greater penalty is provided pursuant to NRS
37 212.160, a person who is convicted of the possession of 1 ounce or
38 less of marijuana †

39 ~~— (a) For the first offense, is guilty of a misdemeanor and shall be:~~

40 ~~— (1) Punished by a fine of not more than \$600; or~~

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

44 ~~— (b) For the second offense, is guilty of a misdemeanor and shall~~
45 ~~be:~~



1 ~~— (1) Punished by a fine of not more than \$1,000; or~~
2 ~~— (2) Assigned to a program of treatment and rehabilitation~~
3 ~~pursuant to NRS 176A.230 if the court determines that the person is~~
4 ~~eligible to participate in such a program.~~

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

7 ~~— (d) For a fourth or subsequent offense, is guilty of a category E~~
8 ~~felony and shall be punished as provided in NRS 193.130.] is guilty~~
9 ~~of a misdemeanor and shall be punished by:~~

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

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

14 (c) *Being required to undergo an evaluation in accordance*
15 *with subsection 1 of NRS 484C.350,*
16 *↪ or any combination thereof.*

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

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

23 7. *If a person fulfills the terms and conditions imposed for a*
24 *violation of subsection 4, the court shall, without a hearing, order*
25 *sealed all documents, papers and exhibits in that person's record,*
26 *minute book entries and entries on dockets, and other documents*
27 *relating to the case in the custody of such other agencies and*
28 *officers as are named in the court's order. The court shall cause a*
29 *copy of the order to be sent to each agency or officer named in the*
30 *order. Each such agency or officer shall notify the court in writing*
31 *of its compliance with the order.*

32 8. As used in this section:

33 (a) "Controlled substance" includes flunitrazepam, gamma-
34 hydroxybutyrate and each substance for which flunitrazepam or
35 gamma-hydroxybutyrate is an immediate precursor.

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

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

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

40 484C.350 1. If an offender is found guilty of a violation of
41 NRS 484C.110 that is punishable pursuant to paragraph (a) of
42 subsection 1 of NRS 484C.400 and if the concentration of alcohol in
43 the offender's blood or breath at the time of the offense was 0.18 or
44 more, ~~or~~ if an offender is found guilty of a violation of NRS
45 484C.110 or 484C.120 that is punishable pursuant to paragraph (b)



1 of subsection 1 of NRS 484C.400 ~~§~~ *or if the offender is found*
2 *guilty of a violation of subsection 4 of NRS 453.336*, the court
3 shall, before sentencing the offender, require an evaluation of the
4 offender pursuant to subsection 3, 4, 5 or 6 to determine whether the
5 offender has an alcohol or other substance use disorder.

6 2. If an offender is convicted of a violation of NRS 484C.110
7 or 484C.120 that is punishable pursuant to paragraph (a) of
8 subsection 1 of NRS 484C.400 and if the offender is under 21 years
9 of age at the time of the violation ~~§~~ *or if the offender is convicted*
10 *of a violation of subsection 1 or 2 of NRS 202.020, subsection 1 of*
11 *NRS 202.040 or subsection 4 of NRS 678D.310*, the court shall,
12 before sentencing the offender, require an evaluation of the offender
13 pursuant to subsection 3, 4, 5 or 6 to determine whether the offender
14 has an alcohol or other substance use disorder.

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

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

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

23 (c) An advanced practice registered nurse who is certified to
24 make that diagnosis by the State Board of Nursing,

25 ➤ who shall report to the court the results of the evaluation and
26 make a recommendation to the court concerning the length and type
27 of treatment required for the offender.

28 4. The evaluation of an offender who resides more than 30
29 miles from an evaluation center may be conducted outside an
30 evaluation center by a person who has the qualifications set forth in
31 subsection 3. The person who conducts the evaluation shall report to
32 the court the results of the evaluation and make a recommendation
33 to the court concerning the length and type of treatment required for
34 the offender.

35 5. The evaluation of an offender who resides in another state
36 may, upon approval of the court, be conducted in the state where the
37 offender resides by a physician, advanced practice registered nurse
38 or other person who is authorized by the appropriate governmental
39 agency in that state to conduct such an evaluation. The offender
40 shall ensure that the results of the evaluation and the
41 recommendation concerning the length and type of treatment for the
42 offender are reported to the court.

43 6. The evaluation of an offender who resides in this State may,
44 upon approval of the court, be conducted in another state by a
45 physician, advanced practice registered nurse or other person who is



1 authorized by the appropriate governmental agency in that state to
2 conduct such an evaluation if the location of the physician,
3 advanced practice registered nurse or other person in the other state
4 is closer to the residence of the offender than the nearest location in
5 this State at which an evaluation may be conducted. The offender
6 shall ensure that the results of the evaluation and the
7 recommendation concerning the length and type of treatment for the
8 offender are reported to the court.

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

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

14 678D.310 1. Except as otherwise provided in chapter 678C
15 of NRS, ~~any~~ a person shall not:

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

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

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

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

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

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

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

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

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

38 4. A person under 21 years of age who falsely represents
39 himself or herself to be 21 years of age or older to obtain cannabis is
40 guilty of a misdemeanor ~~H~~ **and shall be punished by:**

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

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



1 (c) *Being required to undergo an evaluation in accordance*
2 *with subsection 2 of NRS 484C.350,*
3 *↳ or any combination thereof.*

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

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

19 ~~[6.]~~ 7. A person who manufactures cannabis by chemical
20 extraction or chemical synthesis, unless done pursuant to an adult-
21 use cannabis establishment license for an adult-use cannabis
22 production facility issued by the Board or authorized by this title, is
23 guilty of a category E felony.

24 ~~[7.]~~ 8. A person who knowingly gives cannabis or a cannabis
25 product to any person under 21 years of age or who knowingly
26 leaves or deposits any cannabis or cannabis product in any place
27 with the intent that it will be procured by any person under 21 years
28 of age is guilty of a misdemeanor.

29 ~~[8.]~~ 9. A person who knowingly gives cannabis to any person
30 under 18 years of age or who knowingly leaves or deposits any
31 cannabis in any place with the intent that it will be procured by any
32 person under 18 years of age is guilty of a gross misdemeanor.

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

35 1. Before October 1, 2021, if the person is sentenced on or
36 after October 1, 2021.

37 2. On or after October 1, 2021.



