

SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

- a. *Identify, review and evaluate the current statutes and regulations of this State that criminalize exposure to HIV;*
- b. *Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible;*
- c. *Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;*
- d. *Evaluate current medical and scientific research with respect to modes of HIV transmission implicated by such statutes and regulations;*
- e. *Identify any court decisions enforcing or challenging such statutes and regulations;*
- f. *Assess developments occurring in other states and nationally with respect to modernizing HIV criminalization laws;*
- g. *The Task Force may make recommendations concerning any matter relating to the review and evaluation pursuant to subsection 10, including, without limitation, recommendations concerning proposed legislation, proposed regulations and policies; and*
- h. *The Task Force, shall, on or before September 1, 2020, prepare and submit a report of the activities, findings, and recommendations of the Task Force to:*
 - i. *The Governor;*
 - ii. *And the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Legislature.*

SB 284 TASK FORCE MEMBERS

Andre' Wade - Chair; **Senator Dallas Harris** - Co-Chair
Senator David Parks; Steve Amend; Stephan Page; Quentin Savwoir; Octavio Posada; Ruben Murillo; Vince Collins

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NRS 174.031

Determination of eligibility; court may order defendant to complete program.

1. At the arraignment of a defendant in justice court or municipal court, but before the entry of a plea, the court may determine whether the defendant is eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032. The court shall receive input from the prosecuting attorney and the attorney for the defendant, if any, whether the defendant would benefit from and is eligible for assignment to the program.
2. A defendant may be determined to be eligible by the court for assignment to a preprosecution diversion program if the defendant:
 - (a) Is charged with a misdemeanor other than:
 - (1) A crime of violence as defined in NRS 200.408;
 - (2) Vehicular manslaughter as described in NRS 484B.657;
 - (3) Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130; or
 - (4) A minor traffic offense; and
 - (b) Has not previously been:
 - (1) Convicted of violating any criminal law other than a minor traffic offense; or
 - (2) Ordered by a court to complete a preprosecution diversion program in this State.
3. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to subsection 2, the justice court or municipal court may order the defendant to complete the program pursuant to subsection 5 of NRS 174.032.
4. A defendant has no right to complete a preprosecution diversion program or to appeal the decision of the justice court or municipal court relating to the participation of the defendant in such a program.
(Added to NRS by 2017, 3010)

TASKFORCE RECOMMENDATIONS (NRS 174.031)

Leave as is.

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

- (b) Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible;*
- (c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin*

NOTES

* Task Force member responsible: **Steve Amend; Stephan Page**

**NRS 201.205
INTENTIONAL TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS**

Penalty; affirmative defense. (to be rea

1. A person who, after testing positive in a test approved by the State Board of Health for exposure to the human immunodeficiency virus and receiving actual notice of that fact, intentionally, knowingly or willfully engages in conduct in a manner that is intended or likely to transmit the disease to another person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. It is an affirmative defense to an offense charged pursuant to subsection 1 that the person who was subject to exposure to the human immunodeficiency virus as a result of the prohibited conduct:

(a) Knew the defendant was infected with the human immunodeficiency virus;

(b) Knew the conduct could result in exposure to the human immunodeficiency virus; and (c) Consented to engage in the conduct with that knowledge.

TASKFORCE RECOMMENDATIONS (NRS 201.205)

Up for possible repeal. If not repealed, what is an alternative? Perhaps move to a misdemeanor (of which there are different categories). Add language around U=U and/or condom use. However, U=U can't be a standard, but maybe an affirmative defense. Make a change to the definition of what it means to be 'positive.'

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;

(e) Identify any court decisions enforcing or challenging such statutes and regulations

NOTES

* Task Force member responsible: **Octavio Posada**

Glegola v. State: ...the Court upheld the conviction and sentence because there is no specific intent element required for the crime of "solicitation for prostitution after notice of testing positive for HIV"; the State merely had to establish the appellant (1) was living with HIV, (2) was aware of her HIV status, and (3) offered, agreed, or arranged to provide sexual conduct for a fee...

NRS 201.354 - Engaging in prostitution or solicitation for prostitution: Provision of certain information; criminal penalties; civil penalty; discharge and dismissal.

NRS 193.150 Punishment of misdemeanors.

1. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

NRS 218D.270

Certain legislative measures must include information relating to unfunded mandates.

If any provision contained in a legislative measure will have the effect of requiring one or more local governments to establish, provide or increase a program or service which is estimated to cost in excess of \$5,000 per local government and a specified source for the additional revenue to pay the expense is not authorized by a specific statute, the face of the legislative measure must indicate:

1. That the legislative measure contains an unfunded mandate; and
2. Whether the legislative measure was requested by or on behalf of one or more of the local governments that will be required by the legislative measure to establish, provide or increase the program or service.

(Added to NRS by 1999, 1181; A 2011, 3193)

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NRS 201.354

Engaging in prostitution or solicitation for prostitution: Provision of certain information; criminal penalties; civil penalty; discharge and dismissal.

1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.
2. Any person who violates subsection 1 by soliciting for prostitution:

- (a) A peace officer who is posing as a child; or
- (b) A person who is assisting a peace officer by posing as a child,

↳ is guilty of soliciting a child for prostitution.

1. 3. A prostitute who violates subsection 1 is guilty of a misdemeanor. A peace officer who
 - a. (a) Detains, but does not arrest or issue a citation to a prostitute for a violation of subsection 1 shall, before releasing the prostitute, provide information regarding and opportunities for connecting with social service agencies that may provide assistance to the prostitute. The Department of Health and Human Services shall assist law enforcement agencies in providing information regarding and opportunities for connecting with such social service agencies pursuant to this paragraph.
 - b. (b) Arrests or issues a citation to a prostitute for a violation of subsection 1 shall, before the prostitute is released from custody or cited:
 - i. (1) Inform the prostitute that he or she may be eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032; and
 - ii. (2) Provide the information regarding and opportunities for connecting with social service agencies described in paragraph (a).
4. Except as otherwise provided in subsection 6, a customer who violates this section:
 - (a) For a first offense, is guilty of a misdemeanor and shall be punished as provided in NRS 193.150, and by a fine of not less than \$400.
 - (b) For a second offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$800.
 - (c) For a third or subsequent offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$1,300.
5. In addition to any other penalty imposed, the court shall order a person who violates subsection 4 to pay a civil penalty of not less than \$200 per offense. The civil penalty must be paid to the district attorney or city attorney of the jurisdiction in which the violation occurred. If the civil penalty imposed pursuant to this subsection:
 - (a) Is not within the person's present ability to pay, in lieu of paying the penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the civil penalty.
 - (b) Is not entirely within the person's present ability to pay, in lieu of paying the entire civil penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the amount of the reduction of the civil penalty.
6. A customer who violates this section by soliciting a child for prostitution:
 - (a) For a first offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130, and by a fine of not more than \$5,000.
 - (b) For a second offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.
 - (c) For a third or subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and maximum term of not more than 6 years, and may be further punished by a fine of not more than \$15,000. The court shall not grant probation to or suspend the sentence of a person punished pursuant to this paragraph.
7. Any civil penalty collected by a district attorney or city attorney pursuant to subsection 5 must be deposited in the county or city treasury, as applicable, to be used for:
 - (a) The enforcement of this section; and
 - (b) Programs of treatment for persons who solicit prostitution which are certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

↳ Not less than 50 percent of the money deposited in the county or city treasury, as applicable, pursuant to this subsection must be used for the enforcement of this section.

8. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or 5.055 to participate in a program for the treatment of persons who solicit prostitution, upon fulfillment of the terms and conditions of the program, the court may discharge the person and dismiss the proceedings against the person. If the court discharges the person and dismisses the proceedings against the person, a nonpublic record of the discharge and dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section for participation in a program of treatment for persons who solicit prostitution. Except as otherwise provided in this subsection, discharge and dismissal under this subsection is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for a second or subsequent conviction or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the proceedings. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the proceedings in response to an inquiry made of the person for any purpose. Discharge and dismissal under this subsection may occur only once with respect to any person. A professional licensing board may consider a proceeding under this subsection in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

9. Except as limited by subsection 10, if a person is discharged and the proceedings against the person are dismissed pursuant to subsection 8, the court shall, without a hearing, order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

10. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

11. If, at any time before the trial of a prostitute charged with a violation of subsection 1, the prosecuting attorney has reason to believe that the prostitute is a victim of sex trafficking, the prosecuting attorney shall dismiss the charge. As used in this subsection, "sex trafficking" means a violation of subsection 2 of NRS 201.300.

(Added to NRS by 1987, 2027; A 1991, 462; 2009, 1245; 2015, 1003; 2017, 1656; 2019, 1910, 3365)

TASKFORCE RECOMMENDATIONS (NRS 201.354)

Leave as is.

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(b) Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible;

(c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin

NOTES

* Task Force member responsible: **Brad Sears** (guest)

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NRS 201.356

Test for exposure to human immunodeficiency virus required; payment of costs; notification of results of test.

1. Any person who is arrested for a violation of NRS 201.354 must submit to a test, approved by regulation of the State Board of Health, to detect exposure to the human immunodeficiency virus. The State Board of Health shall not approve a test for use that does not provide the arresting law enforcement agency with the results of the test within 30 days after a person submits to the test. If the person is convicted of a violation of NRS 201.354, the person shall pay the sum of \$100 for the cost of the test.
2. The person performing the test shall immediately transmit the results of the test to the arresting law enforcement agency. If the results of the test are negative, the agency shall inform the court of that fact. If the results of the test are positive, the agency shall upon receipt:
 - (a) Mail the results by certified mail, return receipt requested, to the person arrested at his or her last known address and place the returned receipt in the agency's file; or

(b) If the person arrested is in the custody of the agency, personally deliver the results to him or her and place an affidavit of service in the agency's file.

↳ If before receiving the results pursuant to this subsection, the person arrested requests the agency to inform him or her of the results and the agency has received those results, the agency shall deliver the results to the person arrested, whether positive or negative, and place an affidavit of service in the agency's file.

3. The court shall, when the person arrested is arraigned, order the person to reappear before the court 45 days after the arraignment to determine whether the person has received the results of the test. The court shall inform the person that the failure to appear at the appointed time will result in the issuance of a bench warrant, unless the order is rescinded pursuant to this subsection. If the court is informed by the agency that the results of the person's test were negative, the court clerk shall rescind the order for reappearance and so notify the person. If, upon receiving notice from the agency that the results of the test were positive, the person notifies the court clerk in writing that he or she has received the results, the clerk shall inform the court and rescind the order for reappearance for that determination.

4. The court shall, upon the person's reappearance ordered pursuant to subsection 3, ask the person whether he or she has received the results of the test. If the person answers that he or she has received them, the court shall note the person's answer in the court records. If the person answers that he or she has not received them, the court shall have the results delivered to the person and direct that an affidavit of service be placed in the agency's file.

5. If the person does not reappear as ordered and has not notified the court clerk of his or her receipt of the results of the test in the manner set forth in subsection 3, the court shall cause a bench warrant to be issued and that person arrested and brought before the court as upon contempt. The court shall also proceed in the manner set forth in subsection 4 to ensure that the person receives the results of the test.

(Added to NRS by 1987, 2027; A 1989, 924)

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TASKFORCE RECOMMENDATIONS (NRS 201.356)

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;

(d) Evaluate current medical and scientific research with respect to modes of HIV transmission implicated by such statutes and regulations;

NOTES

* Task Force member responsible: **Vince Collins**

Should someone have to pay \$100? Some agree. Some don't. Look at just of laws and stigma. Who should bear costs? Perhaps a flat fee for all STI/STD testing.

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NRS 201.358

Engaging in prostitution or solicitation for prostitution after testing positive for exposure to human immunodeficiency virus: Penalty; definition.

1. A person who:

- (a) Violates NRS 201.354; or
- (b) Works as a prostitute in a licensed house of prostitution,

↳ after testing positive in a test approved by the State Board of Health for exposure to the human immunodeficiency virus and receiving notice of that fact is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. As used in this section, “notice” means:
- (a) Actual notice; or
 - (b) Notice received pursuant to NRS 201.356.

(Added to NRS by 1987, 2027; A 1989, 589, 925; 1995, 1203)

TASKFORCE RECOMMENDATIONS (NRS 201.358)

(a)(b) to be revisited for discussion. - mimic recommendations of 201.205. There is already a punishment for prostitution. Incorporate affirmative defense. Enhancements for forceable sex crimes?

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;

NOTES

* Task Force member responsible: **All**

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NRS 209.385

Testing offenders for exposure to human immunodeficiency virus; disclosure of name of offender whose tests are positive; segregation of offender; duties of Director.

1. Each offender committed to the custody of the Department for imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:

- (a) The appropriate approved tests must be administered; and
- (b) The offender must receive counseling regarding the virus.

2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Medical Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.

3. If the results of a supplemental test are positive, the name of the offender may be disclosed to:
 - (a) The Director;
 - (b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;
 - (c) The manager or warden of the facility or institution at which the offender is confined; and
 - (d) Any other employee of the Department whose normal duties involve the employee with the offender or require the employee to come into contact with the blood or bodily fluids of the offender.
 4. The offender must be segregated from every other offender whose test results are negative if:
 - (a) The results of a supplemental test are positive; and
 - (b) The offender engages in behavior that increases the risk of transmitting the virus as determined by regulation of the Department.
 5. The Director, with the approval of the Board:
 - (a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Division of Public and Behavioral Health of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Division.
 - (b) May adopt such regulations as are necessary to carry out the provisions of this section.
 6. As used in this section, "incident" means an occurrence, of a kind specified by regulation of the State Board of Health or the Department, that entails a significant risk of exposure to the human immunodeficiency virus.
- (Added to NRS by 1989, 385; A1993, 6,516,517; 1997, 906; 2013, 1168; 2017, 357)

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TASKFORCE RECOMMENDATIONS (NRS 209.385)

(a)(b) looked at regulations in 2017, then reversed. No reference to defendants viral suppression. Is segregated defined in NRS? If no definition, then would be up to the director. Do we need to look at PREA?

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;

(d) Evaluate current medical and scientific research with respect to modes of HIV transmission implicated by such statutes and regulations

NOTES

(a)(b) looked at regulations in 2017, then reversed. No reference to defendants' viral suppression. Is segregated defined in NRS? If no definition, then would be up to the director. Do we need to look at PREA?

* Task Force member responsible: **All**

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NRS 441A.160

Investigation: Powers of health authority to conduct investigation of communicable disease; order to require person to submit to examination; order of isolation, quarantine or treatment.

1. A health authority who knows, suspects or is informed of the existence within the jurisdiction of the health authority of any communicable disease shall immediately investigate the matter and all circumstances connected with it, and shall take such measures for the prevention, suppression and control of the disease as are required by the regulations of the Board or a local board of health.
2. A health authority may:
 - (a) Enter private property at reasonable hours to investigate any case or suspected case of a communicable disease.
 - (b) Order any person whom the health authority reasonably suspects has a communicable disease in an infectious state to submit to any medical examination or test which the health authority believes is necessary to verify the presence of the disease. The order must be in writing and specify the name of the person to be examined and the time and place of the examination and testing, and may include such terms and conditions as the health authority believes are necessary to protect the public health.
 - (c) Except as otherwise provided in subsection 5 and NRS 441A.210, issue an order requiring the isolation, quarantine or treatment of any person or group of persons if the health authority believes that such action is necessary to protect the public health. The order must be in writing and specify the person or group of persons to be isolated or quarantined, the time during which the order is effective, the place of

isolation or quarantine and other terms and conditions which the health authority believes are necessary to protect the public health, except that no isolation or quarantine may take place if the health authority determines that such action may endanger the life of a person who is isolated or quarantined.

3. Each order issued pursuant to this section must be served upon each person named in the order by delivering a copy to him or her.
4. If a health authority issues an order to isolate or quarantine a person with a communicable or infectious disease in a medical facility, the health authority must isolate or quarantine the person in the manner set forth in NRS 441A.510 to 441A.720, inclusive.
5. Except as otherwise provided in NRS 441A.310 and 441A.380, a health authority may not issue an order requiring the involuntary treatment of a person without a court order requiring the person to submit to treatment. (Added to NRS by 1989, 295; A 2003, 2206; 2011, 2507)

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TASKFORCE RECOMMENDATIONS (NRS 441A.160)

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

- (a) Identify, review and evaluate the current statutes and regulations of this State that criminalize exposure to HIV;*
- (c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;*
- (f) Assess developments occurring in other states and nationally with respect to modernizing HIV criminalization laws;*
- (g) The Task Force may make recommendations concerning any matter relating to the review and evaluation pursuant to subsection 10, including, without limitation, recommendations concerning proposed legislation, proposed regulations and policies; and*
- (h) The Task Force, shall, on or before September 1, 2020, prepare and submit a report of the activities, findings, and recommendations of the Task Force to:*
 - i. The Governor;*
 - ii. And the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Legislature.*

NOTES

* Task Force member responsible: **André Wade**

- Point out that these laws do not necessarily reduce HIV transmission. Stephan Page to do research on this.

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NRS 441A.180

Contagious person to prevent exposure to others; warning by health authority; penalty.

1. A person who has a communicable disease in an infectious state shall not conduct himself or herself in any manner likely to expose others to the disease or engage in any occupation in which it is likely that the disease will be transmitted to others.
2. A health authority who has reason to believe that a person is in violation of subsection 1 shall issue a warning to that person, in writing, informing the person of the behavior which constitutes the violation and of the precautions that the person must take to avoid exposing others to the disease. The warning must be served upon the person by delivering a copy to him or her.
3. A person who violates the provisions of subsection 1 after service upon him or her of a warning from a health authority is guilty of a misdemeanor. (Added to NRS by 1989, 296)

TASKFORCE RECOMMENDATIONS (NRS 441A.180)

HIV as a communicable disease; therefore, no need for 441A.300 (don't make change). Could be used to justify repealing 201.205

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(d) Evaluate current medical and scientific research with respect to modes of HIV transmission implicated by such statutes and regulations

NOTES

* Task Force member responsible: **All**

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NRS 441A.220

Confidentiality of information; permissible disclosure.

All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease or drug overdose, or by any person who has a communicable disease or has suffered a drug overdose, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except:

1. As otherwise provided in NRS 439.538.
2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.
3. In a prosecution for a violation of this chapter.
4. In a proceeding for an injunction brought pursuant to this chapter.
5. In reporting the actual or suspected abuse or neglect of a child or elderly person.
6. To any person who has a medical need to know the information for his or her own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.
7. If the person who is the subject of the information consents in writing to the disclosure.
8. Pursuant to subsection 4 of NRS 441A.320 or NRS 629.069.

9. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.

10. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.

11. If the disclosure is authorized or required by NRS 239.0115 or another specific statute.

(Added to NRS by 1989, 299; A 1989, 1476; 1997, 1254; 1999, 1123, 2238, 2245; 2005, 329; 2007, 1277, 1977, 2109; 2017, 4402)

TASKFORCE RECOMMENDATIONS (NRS 441A.220)

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(b) Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible

NOTES

* Task Force member responsible: **All**

NRS 441A.230

Disclosure of personal information prohibited without consent.

Except as otherwise provided in this chapter and NRS 439.538, a person shall not make public the name of, or other personal identifying information about, a person infected with a communicable disease who has been investigated by the health authority pursuant to this chapter without the consent of the person. (Added to NRS by 1989, 300; A 2007, 1978)

TASKFORCE RECOMMENDATIONS (NRS 441A.230)

Leave as is. No comment.

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(b) Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible

NOTES

* Task Force member responsible: **Brad Sears** (guest)

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NRS 441A.300

Confinement of person whose conduct may spread acquired immunodeficiency syndrome.

A person who is diagnosed as having acquired immunodeficiency syndrome who fails to comply with a written order of a health authority, or who engages in behavior through which the disease may be spread to others, is, in addition to any other penalty imposed pursuant to this chapter, subject to confinement by order of a court of competent jurisdiction. (Added to NRS by 1989, 297)

TASKFORCE RECOMMENDATIONS (NRS 441A.300)

Should be repealed.

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

(c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;

(d) Evaluate current medical and scientific research with respect to modes of HIV transmission implicated by such statutes and regulations

NOTES

* Task Force member responsible: **Brad Sears** (guest)

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NRS 441A.320

Testing of person alleged to have committed sexual offense; disclosure of results of test; assistance to victim; payment of expenses; regulations.

1. If the alleged victim or a witness to a crime alleges that the crime involved the sexual penetration of the victim's body, the health authority shall perform the tests set forth in subsection 2 as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than 72 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and then not later than 72 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act.

2. If the health authority is required to perform tests pursuant to subsection 1, it must test a specimen obtained from the arrested person for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease, regardless of whether the person or, if the person is a child, the parent or guardian of the child consents to providing the specimen. The agency that has custody of the arrested person shall obtain the specimen and submit it to the health authority for testing. The health authority shall perform the test in accordance with generally accepted medical practices.

3. In addition to the test performed pursuant to subsection 2, the health authority shall perform such follow-up tests for the human immunodeficiency virus as may be deemed medically appropriate.
4. As soon as practicable, the health authority shall disclose the results of all tests performed pursuant to subsection 2 or 3 to:
 - (a) The victim or to the victim's parent or guardian if the victim is a child; and
 - (b) The arrested person and, if the person is a child, to the parent or guardian of the child.
5. If the health authority determines, from the results of a test performed pursuant to subsection 2 or 3, that a victim of sexual assault may have been exposed to the human immunodeficiency virus or any commonly contracted sexually transmitted disease, it shall, at the request of the victim, provide him or her with:
 - (a) An examination for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed;
 - (b) Counseling regarding the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed; and
 - (c) A referral for health care and other assistance,
 ↪ as appropriate.
6. If the court in:
 - (a) A criminal proceeding determines that a person has committed a crime; or
 - (b) A proceeding conducted pursuant to title 5 of NRS determines that a child has committed an act which, if committed by an adult, would have constituted a crime,
 ↪ involving the sexual penetration of a victim's body, the court shall, upon application by the health authority, order that child or other person to pay any expenses incurred in carrying out this section with regard to that child or other person and that victim.
7. The Board shall adopt regulations identifying, for the purposes of this section, sexually transmitted diseases which are commonly contracted.
8. As used in this section:
 - (a) "Sexual assault" means a violation of NRS 200.366.
 - (b) "Sexual penetration" has the meaning ascribed to it in NRS 200.364. (Added to NRS by 1989, 297; A 1993, 1208; 2003, 1150; 2007, 1278; 2019, 1915)

TASKFORCE RECOMMENDATIONS (NRS 441A.320)

Maybe remove specific mention of HIV since it is a STD/STI (CDC uses STI and STD language, per Amend.)

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

- (b) *Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible;*
- (d) *Evaluate current medical and scientific research with respect to modes of HIV transmission implicated by such statutes and regulations*

NOTES

* Task Force member responsible: **Chris Reynolds** (guest)

NRS 441A.910

Criminal penalty for violation of chapter.

Except as otherwise provided, every person who violates any provision of this chapter is guilty of a misdemeanor.
(Added to NRS by 1989, 300)

TASKFORCE RECOMMENDATIONS (NRS 441A.910)

Leave as is.

RELATED SB 284 TASK FORCE DUTIES AND RESPONSIBILITIES

- (a) Identify, review and evaluate the current statutes and regulations of this State that criminalize exposure to HIV;*
- (b) Research the implementation and impact of such statutes and regulations, including without limitation, quantifying their impact through the analysis of the records, information, and data relevant to this State to the extent possible;*
- (c) Identify any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;*
- (f) Assess developments occurring in other states and nationally with respect to modernizing HIV criminalization laws;*
- (g) The Task Force may make recommendations concerning any matter relating to the review and evaluation pursuant to subsection 10, including, without limitation, recommendations concerning proposed legislation, proposed regulations and policies; and*
- (h) The Task Force, shall, on or before September 1, 2020, prepare and submit a report of the activities, findings, and recommendations of the Task Force to:*
 - i. The Governor;*
 - ii. And the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Legislature.*

NOTES

* Task Force member responsible: **Steve Amend**

- Point out that these laws do not necessarily reduce HIV transmission. Stephan Page to do research on this.