

ASSEMBLY BILL NO. 196—ASSEMBLYMEN GUSTAVSON, MANENDO, HUMKE, CEGAVSKE, BERMAN, HETRICK, MCCLAIN, DE BRAGA, PARKS, PERKINS, GIBBONS, BACHE, TIFFANY, BUCKLEY, GOLDWATER, ANGLE, VON TOBEL, LEE, NOLAN, KOIVISTO, MORTENSON, LESLIE, CHOWNING AND BEERS

FEBRUARY 10, 1999

Referred to Concurrent Committees on Judiciary
and Ways and Means

SUMMARY—Makes various changes concerning driving under influence of intoxicating liquor or controlled substance. (BDR 43-1009)

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

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

AN ACT relating to motor vehicles; providing in skeleton form to make it unlawful for a driver of a motor vehicle to have a detectable amount of a controlled substance or its metabolite in his system; making all prior offenses count in determining the penalty for subsequent offenses of driving under the influence of intoxicating liquor or a controlled substance regardless of when the prior offenses occurred; increasing the penalties for driving under the influence of a controlled substance; making various other changes concerning driving under the influence of intoxicating liquor or a controlled substance; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 482.31555 is hereby amended to read as follows:
2 482.31555 A short-term lessor may provide in a lease of a passenger
3 car that a waiver of damages does not apply in the following
4 circumstances:
5 1. Damage or loss resulting from an authorized driver's:
6 (a) Intentional, willful, wanton or reckless conduct ; ~~§~~
7 (b) Operation of the car in violation of NRS 484.379 ~~§~~ *or section 9 of*
8 *this act;*
9 (c) Towing or pushing with the car ~~§~~ ; *or*

1 (d) Operation of the car on an unpaved road if the damage or loss is a
2 direct result of the road or driving conditions.

3 2. Damage or loss occurring when the passenger car is:

4 (a) Used for hire ; ~~H~~

5 (b) Used in connection with conduct that constitutes a felony ; ~~H~~

6 (c) Involved in a speed test or contest or in driver training activity ; ~~H~~

7 (d) Operated by a person other than an authorized driver ~~H~~ ; **or**

8 (e) Operated outside of the United States.

9 3. An authorized driver providing:

10 (a) Fraudulent information to the short-term lessor ~~H~~ ; **or**

11 (b) False information to the lessor and the lessor would not have leased
12 the passenger car if he had received true information.

13 **Sec. 2.** NRS 483.330 is hereby amended to read as follows:

14 483.330 1. The department may require every applicant for a
15 driver's license, including a commercial driver's license issued pursuant to
16 NRS 483.900 to 483.940, inclusive, to submit to an examination. The
17 examination may include:

18 (a) A test of the applicant's ability to understand official devices used to
19 control traffic;

20 (b) A test of his knowledge of practices for safe driving and the traffic
21 laws of this state;

22 (c) Except as otherwise provided in subsection 2, a test of his eyesight;
23 and

24 (d) Except as otherwise provided in subsection 3, an actual
25 demonstration of his ability to exercise ordinary and reasonable control in
26 the operation of a motor vehicle of the type or class of vehicle for which he
27 is to be licensed.

28 The examination may also include such further physical and mental
29 examination as the department finds necessary to determine the applicant's
30 fitness to drive a motor vehicle safely upon the highways.

31 2. The department may provide by regulation for the acceptance of a
32 report from an ophthalmologist, optician or optometrist in lieu of an eye
33 test by a driver's license examiner.

34 3. If the department establishes a type or classification of driver's
35 license to operate a motor vehicle of a type which is not normally available
36 to examine an applicant's ability to exercise ordinary and reasonable
37 control of such a vehicle, the department may, by regulation, provide for
38 the acceptance of an affidavit from a:

39 (a) Past, present or prospective employer of the applicant; or

40 (b) Local joint apprenticeship committee which had jurisdiction over
41 the training or testing, or both, of the applicant,
42 in lieu of an actual demonstration.

4. The department may waive an examination pursuant to subsection 1 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 unless that person:

- (a) Has not attained 25 years of age;
- (b) Has had his license or privilege to drive a motor vehicle suspended, revoked or canceled or has been otherwise disqualified from driving during the immediately preceding 4 years;
- (c) Has been convicted of the offense of driving a motor vehicle while under the influence of an intoxicating liquor, a controlled substance, a chemical poison or an organic solvent, ~~{during the immediately preceding 7 years,}~~ or the violation of a law which prohibits the same or similar conduct;
- (d) Has restrictions to his driver's license which the department must reevaluate to ensure the safe driving of a motor vehicle by that person;
- (e) Has had three or more convictions of moving traffic violations on his driving record during the immediately preceding 4 years; or
- (f) Has been convicted of any of the offenses related to the use or operation of a motor vehicle which must be reported pursuant to the provisions of Parts 1325 and 1327 of Title 23 of the Code of Federal Regulations relating to the National Driver Register Problem Driver Pointer System during the immediately preceding 4 years.

Sec. 3. NRS 483.410 is hereby amended to read as follows:

483.410 1. Except as otherwise provided in subsection 6, for every driver's license, including a motorcycle driver's license, issued and service performed the following fees must be charged:

A license issued to a person 65 years of age or older	\$14
An original license issued to any other person.....	19
A renewal license issued to any other person.....	19
Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484.379 or 484.3795 <i>or section 9, 11 or 12 of this act</i> or pursuant to NRS 484.384 and 484.385.....	40
Reinstatement of a license after revocation for a violation of NRS 484.379 or 484.3795 <i>or section 9, 11 or 12 of this act</i> or pursuant to NRS 484.384 and 484.385	65
A new photograph, change of name, change of other information, except address, or any combination....	5
A duplicate license	14

2. For every motorcycle endorsement to a driver's license a fee of \$5 must be charged.

3. If no other change is requested or required, the department shall not charge a fee to convert the number of a license from the licensee's social security number, or a number that was formulated by using the licensee's social security number as a basis for the number, to a unique number that is not based on the licensee's social security number.

4. The increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.383 and 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.

5. A penalty of \$10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.

6. The department may not charge a fee for the reinstatement of a driver's license that has been:

- (a) Voluntarily surrendered for medical reasons; or
- (b) Canceled pursuant to NRS 483.310.

7. All fees and penalties are payable to the administrator at the time a license or a renewal license is issued.

8. Except as otherwise provided in NRS 483.415, all money collected by the department pursuant to this chapter must be deposited in the state treasury for credit to the motor vehicle fund.

Sec. 4. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by statute, the department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) *Permanently if the offense is:*

(1) *A violation of section 12 of this act; or*

(2) *Punishable pursuant to paragraph (d) of subsection 1 of section 10 of this act.*

(b) *For a period of 4 years if the offense is:*

(1) *A violation of section 11 of this act;*

(2) *Punishable pursuant to subsection 2 of section 10 of this act; or*

(3) *Punishable pursuant to paragraph (c) of subsection 1 of section 10 of this act.*

(c) For a period of 3 years if the offense is:

(1) A violation of subsection 2 of NRS 484.377 ; ~~H~~

(2) A third or subsequent violation ~~{within 7 years}~~ of NRS 484.379

~~H~~

;

or

1 (3) A violation of NRS 484.3795 or homicide resulting from driving
2 a vehicle while under the influence of intoxicating liquor . ~~for a controlled~~
3 ~~substance.~~

4 ~~The period during which such a driver is not eligible for a license, permit~~
5 ~~or privilege to drive must be set aside during any period of imprisonment~~
6 ~~and the period of revocation must resume upon completion of the period of~~
7 ~~imprisonment or when the person is placed on residential confinement.~~

8 ~~—(b)~~ **(d) For a period of 2 years if the offense is punishable pursuant to**
9 **paragraph (b) of subsection 1 of section 10 of this act.**

10 **(e)** For a period of 1 year if the offense is:

11 (1) Any other manslaughter resulting from the driving of a motor
12 vehicle or felony in the commission of which a motor vehicle is used,
13 including , **without limitation**, the unlawful taking of a motor vehicle ; ~~;~~

14 (2) Failure to stop and render aid as required pursuant to the laws of
15 this state in the event of a motor vehicle accident resulting in the death or
16 bodily injury of another ; ~~;~~

17 (3) Perjury or the making of a false affidavit or statement under oath
18 to the department pursuant to NRS 483.010 to 483.630, inclusive, or
19 pursuant to any other law relating to the ownership or driving of motor
20 vehicles ; ~~;~~

21 (4) Conviction, or forfeiture of bail not vacated, upon three charges
22 of reckless driving committed within a period of 12 months ; ~~;~~

23 (5) A second violation ~~[within 7 years]~~ of NRS 484.379 and, except
24 as otherwise provided in subsection 2 of NRS 483.490, the driver is not
25 eligible for a restricted license during any of that period ; ~~;~~

26 (6) A violation of NRS 484.348 ~~;~~ ; or

27 ~~[(e)]~~ **(7) Punishable pursuant to paragraph (a) of subsection 1 of**
28 **section 10 of this act.**

29 **(f)** For a period of 90 days, if the offense is a first violation ~~[within 7~~
30 ~~years]~~ of NRS 484.379.

31 2. **The period during which a driver is not eligible for a license,**
32 **permit or privilege to drive pursuant to subsection 1 must be set aside**
33 **during any period of imprisonment and the period of revocation must**
34 **resume upon completion of the period of imprisonment or when the**
35 **person is placed on residential confinement.**

36 3. The department shall revoke the license, permit or privilege of a
37 driver convicted of violating NRS 484.379 who fails to complete the
38 educational course on the use of alcohol ~~[and controlled substances]~~ within
39 the time ordered by the court and shall add a period of 90 days during
40 which the driver is not eligible for a license, permit or privilege to drive.

~~[3.]~~ 4. When the department is notified by a court that a person who has been convicted of violating NRS 484.379 has been permitted to enter a program of treatment pursuant to NRS 484.37937 or 484.3794, the department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

~~[4.]~~ 5. The department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

~~[5.]~~ 6. A driver whose license, permit or privilege is revoked pursuant to subsection ~~[4.]~~ 5 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever is applicable.

~~[6.]~~ 7. When the department is notified that a court has:

(a) Pursuant to paragraph (h) of subsection 1 of NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228, ordered the suspension or delay in the issuance of a child's license;

(b) Pursuant to NRS 206.330, ordered the suspension or delay in the issuance of a person's license; or

(c) Pursuant to NRS 62.227, ordered the revocation of a child's license,

the department shall take such actions as are necessary to carry out the court's order.

~~[7.]~~ 8. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 5. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a second violation ~~[within 7 years]~~ of NRS 484.379 and one-half of the period during which the driver is not eligible for a license has expired, the department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

1 Before a restricted license may be issued, the applicant must submit
2 sufficient documentary evidence to satisfy the department that a severe
3 hardship exists because the applicant has no alternative means of
4 transportation and that the severe hardship outweighs the risk to the public
5 if he is issued a restricted license.

6 2. A person who has been ordered to install a device in a motor vehicle
7 which he owns or operates pursuant to NRS 484.3943:

8 (a) Shall install the device not later than 21 days after the date on which
9 the order was issued; and

10 (b) May not receive a restricted license pursuant to this section until:

11 (1) After at least 180 days of the period during which he is not
12 eligible for a license, if he was convicted of a violation of subsection 2 of
13 NRS 484.377, a violation of NRS 484.3795 or homicide resulting from
14 driving a vehicle while under the influence of intoxicating liquor ~~for a~~
15 ~~controlled substance~~ or if he was convicted of a third violation ~~{within 7~~
16 ~~years}~~ of NRS 484.379;

17 (2) After at least 90 days of the period during which he is not eligible
18 for a license, if he was convicted of a second violation ~~{within 7 years}~~ of
19 NRS 484.379; or

20 (3) After at least 45 days of the period during which he is not eligible
21 for a license, if he was convicted of a first violation ~~{within 7 years}~~ of
22 NRS 484.379.

23 3. If the department has received a copy of an order requiring a person
24 to install a device in a motor vehicle which he owns or operates pursuant to
25 NRS 484.3943, the department shall not issue a restricted driver's license
26 to such a person pursuant to this section unless the applicant has submitted
27 proof of compliance with the order and subsection 2.

28 4. After a driver's license has been revoked pursuant to subsection 1 ,
29 ~~2 or 3~~ of NRS 62.227 or suspended pursuant to paragraph (h) of subsection
30 1 of NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228, the department
31 may issue a restricted driver's license to an applicant permitting the
32 applicant to drive a motor vehicle:

33 (a) If applicable, to and from work or in the course of his work, or both;
34 and

35 (b) If applicable, to and from school.

36 5. After a driver's license has been suspended pursuant to NRS
37 483.443, the department may issue a restricted driver's license to an
38 applicant permitting the applicant to drive a motor vehicle:

39 (a) If applicable, to and from work or in the course of his work, or both;

40 (b) To receive regularly scheduled medical care for himself or a
41 member of his immediate family; and

42 (c) If applicable, as necessary to exercise a court-ordered right to visit a
43 child.

1 6. A driver who violates a condition of a restricted license issued
2 pursuant to subsection 1 or by another jurisdiction is guilty of a
3 misdemeanor, and if his license was suspended or revoked for a violation
4 of NRS 484.379, 484.3795, 484.384 *or section 9, 11 or 12 of this act* or a
5 homicide resulting from driving a vehicle while under the influence of
6 intoxicating liquor or a controlled substance, or the violation of a law of
7 any other jurisdiction which prohibits the same conduct, he shall be
8 punished in the manner provided pursuant to subsection 2 of NRS 483.560.

9 7. The periods of suspensions and revocations required pursuant to this
10 chapter and NRS 484.384 must run consecutively, except as otherwise
11 provided in NRS 483.465 and 483.475, when the suspensions must run
12 concurrently.

13 8. Whenever the department suspends or revokes a license, the period
14 of suspension, or of ineligibility for a license after the revocation, begins
15 upon the effective date of the revocation or suspension as contained in the
16 notice thereof.

17 **Sec. 6.** NRS 483.560 is hereby amended to read as follows:

18 483.560 1. Except as otherwise provided in subsection 2, any person
19 who drives a motor vehicle on a highway or on premises to which the
20 public has access at a time when his driver's license has been canceled,
21 revoked or suspended is guilty of a misdemeanor.

22 2. Except as otherwise provided in this subsection, if the license was
23 suspended, revoked or restricted because of a violation of NRS 484.379,
24 484.3795 or 484.384 *or section 9, 11 or 12 of this act* or a homicide
25 resulting from driving a vehicle while under the influence of intoxicating
26 liquor or a controlled substance, or the violation of a law of any other
27 jurisdiction which prohibits the same conduct, he shall be:

28 (a) Punished by imprisonment in jail for not less than 30 days nor more
29 than 6 months; or

30 (b) Sentenced to a term of not less than 60 days in residential
31 confinement nor more than 6 months, and by a fine of not less than \$500
32 nor more than \$1,000.

33 A person who is punished under this subsection may not be granted
34 probation and a sentence imposed for such a violation may not be
35 suspended. A prosecutor may not dismiss a charge of such a violation in
36 exchange for a plea of guilty, of guilty but mentally ill or of nolo
37 contendere to a lesser charge or for any other reason, unless in his
38 judgment the charge is not supported by probable cause or cannot be
39 proved at trial. The provisions of this subsection do not apply if the period
40 of revocation has expired but the person has not reinstated his license.

3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 must run consecutively.

5. The department upon receiving a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, shall extend the period of the suspension for an additional like period.

(b) Revoked, shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or canceled for an indefinite period, shall suspend his license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations pursuant to this section must run consecutively.

Sec. 7. NRS 483.910 is hereby amended to read as follows:

483.910 1. The department shall charge and collect the following fees:

For an original commercial driver's license which requires the department to administer a driving skills test.....\$84

For an original commercial driver's license which does not require the department to administer a driving skills test 54

For renewal of a commercial driver's license which requires the department to administer a driving skills test.....84

For renewal of a commercial driver's license which does not require the department to administer a driving skills test 54

For reinstatement of a commercial driver's license after suspension or revocation of the license for a violation of NRS

484.379 or 484.3795 ~~§~~ **or section 9, 11 or 12 of this act**, or pursuant to NRS 484.384 and 484.385, or pursuant to 49

C.F.R. § 383.51(b)(2)(i) or (ii)84

1	For reinstatement of a commercial driver's license after	
2	suspension, revocation, cancellation or disqualification of the	
3	license, except a suspension or revocation for a violation of	
4	NRS 484.379 or 484.3795 H or section 9, 11 or 12 of this	
5	act, or pursuant to NRS 484.384 and 484.385, or pursuant to	
6	49 C.F.R. § 383.51(b)(2)(i) or (ii)	\$54
7	For the transfer of a commercial driver's license from another	
8	jurisdiction, which requires the department to administer a	
9	driving skills test	84
10	For the transfer of a commercial driver's license from another	
11	jurisdiction, which does not require the department to	
12	administer a driving skills test.....	54
13	For a duplicate commercial driver's license.....	19
14	For any change of information on a commercial driver's license	9
15	For each endorsement added after the issuance of an original	
16	commercial driver's license.....	14
17	For the administration of a driving skills test to change any	
18	information on, or add an endorsement to, an existing	
19	commercial driver's license.....	30

20
21 2. The department shall charge and collect an annual fee of \$555 from
22 each person who is authorized by the department to administer a driving
23 skills test pursuant to NRS 483.912.

24 3. An additional charge of \$3 must be charged for each knowledge test
25 administered to a person who has twice failed the test.

26 4. An additional charge of \$25 must be charged for each driving skills
27 test administered to a person who has twice failed the test.

28 5. The increase in fees authorized in NRS 483.347 must be paid in
29 addition to the fees charged pursuant to this section.

30 **Sec. 8.** Chapter 484 of NRS is hereby amended by adding thereto the
31 provisions set forth as sections 9 to 12, inclusive, of this act.

32 **Sec. 9. 1. It is unlawful for a person who:**

33 **(a) Is under the influence of a controlled substance;**

34 **(b) Is under the combined influence of intoxicating liquor and a**
35 **controlled substance; or**

36 **(c) Inhales, ingests, applies or otherwise uses any chemical, poison or**
37 **organic solvent, or any compound or combination of any of these,**
38 **to a degree which renders him impaired to any degree or incapable of**
39 **exercising actual physical control of a vehicle to drive or be in actual**
40 **physical control of a vehicle on a highway or on premises to which the**
41 **public has access.**

1 2. It is unlawful for a person who has a detectable amount of a
2 controlled substance or its metabolite in his blood, urine or other bodily
3 substance to drive or be in actual physical control of a vehicle on a
4 highway or on premises to which the public has access.

5 3. It is an affirmative defense to a violation of the provisions of
6 subsection 2 that:

7 (a) The defendant used the controlled substance in accordance with a
8 lawfully issued prescription if the defendant was not instructed not to
9 drive a vehicle while using the controlled substance by a provider of
10 health care or a container of or label on or information provided with the
11 controlled substance; or

12 (b) The only controlled substance or metabolite in the blood, urine or
13 other bodily substance of the defendant was opium that was the result of
14 the defendant legally ingesting poppy seeds.

15 4. Except as otherwise provided in subsection 3, the fact that a
16 person charged with a violation of this subsection is or has been entitled
17 to use that drug under the laws of this state is not a defense against a
18 charge of violating this subsection.

19 5. As used in this section, "provider of health care" has the meaning
20 ascribed to it in NRS 629.031.

21 **Sec. 10. 1.** A person who violates the provisions of section 9 of this
22 act if such violation does not result in an accident:

23 (a) For the first offense, is guilty of a category D felony and shall be
24 punished as provided in NRS 193.130.

25 (b) For the second offense, is guilty of a category C felony and shall
26 be punished by imprisonment in the state prison for a minimum term of
27 not less than 2 years and a maximum term of not more than 5 years, and
28 shall be further punished by a fine of not less than \$3,000.

29 (c) For the third offense, is guilty of a category B felony and shall be
30 punished by imprisonment in the state prison for a minimum term of not
31 less than 3 years and a maximum term of not more than 10 years, and
32 shall be further punished by a fine of not less than \$4,000.

33 (d) For the fourth offense, is guilty of a category B felony and shall be
34 punished by imprisonment in the state prison for a minimum term of not
35 less than 5 years and a maximum term of not more than 20 years, and
36 shall be further punished by a fine of not less than \$10,000.

37 (e) For the fifth offense, is guilty of a category A felony and shall be
38 punished by imprisonment in the state prison for life with the possibility
39 of parole, with eligibility for parole beginning when a minimum of 20
40 years has been served.

41 2. A person who violates the provisions of section 9 of this act if such
42 violation results in an accident, is guilty of a category B felony and shall
43 be punished by imprisonment in the state prison for a minimum term of

1 *not less than 8 years and a maximum term of not more than 20 years,*
2 *and shall be further punished by a fine of not less than \$15,000. In*
3 *addition to any other penalty, the court shall order the person to pay*
4 *restitution.*

5 *3. An offender who is imprisoned pursuant to this section must,*
6 *insofar as practicable, be segregated from offenders whose crimes were*
7 *violent and, insofar as practicable, be assigned to an institution or facility*
8 *of minimum security.*

9 *4. An offense that occurred before the date of the principal offense*
10 *or after the principal offense constitutes a prior offense for the purposes*
11 *of this section when evidenced by a conviction, without regard to the*
12 *sequence of the offenses and convictions. The facts concerning a prior*
13 *offense must be alleged in the complaint, indictment or information,*
14 *must not be read to the jury or proved at trial but must be proved at the*
15 *time of sentencing and, if the principal offense is alleged to be a felony,*
16 *must also be shown at the preliminary examination or presented to the*
17 *grand jury.*

18 *5. A prosecuting attorney shall not dismiss a charge of violating the*
19 *provisions of section 9 of this act in exchange for a plea of guilty, guilty*
20 *but mentally ill or nolo contendere to a lesser charge or for any other*
21 *reason unless he knows or it is obvious that the charge is not supported*
22 *by probable cause or cannot be proved at the time of trial. Probation may*
23 *not be granted to a person sentenced pursuant to this section.*

24 *6. If the defendant was transporting a person who is less than 15*
25 *years of age in the motor vehicle at the time of the violation, the court*
26 *shall consider that fact as an aggravating factor in determining the*
27 *sentence of the defendant.*

28 *7. As used in this section, unless the context otherwise requires,*
29 *“offense” means a violation of NRS 484.379 or 484.3795 or section 9, 11*
30 *or 12 of this act or a homicide resulting from the driving of a vehicle*
31 *while under the influence of intoxicating liquor or a controlled*
32 *substance, or the violation of a law of any other jurisdiction that*
33 *prohibits the same or similar conduct.*

34 **Sec. 11. 1. A person who:**

35 *(a) Is under the influence of a controlled substance;*

36 *(b) Is under the combined influence of intoxicating liquor and a*
37 *controlled substance; or*

38 *(c) Inhales, ingests, applies or otherwise uses any chemical, poison or*
39 *organic solvent, or any compound or combination of any of these,*
40 *to a degree which renders him impaired to any degree or incapable of*
41 *exercising actual physical control of a vehicle, or has a detectable*
42 *amount of a controlled substance or its metabolite in his blood, urine or*
43 *other bodily substance, and does any act or neglects any duty imposed by*

1 law while driving or in actual physical control of any vehicle on or off
2 the highways of this state, if the act or neglect of duty proximately causes
3 substantial bodily harm, other than death, to a person other than himself,
4 is guilty of a category A felony and shall be punished by imprisonment in
5 the state prison for life with the possibility of parole, with eligibility for
6 parole beginning when a minimum of 20 years has been served, and
7 shall be further punished by a fine of not less than \$20,000. In addition
8 to any other penalty, the court shall order the person to pay restitution,
9 including, without limitation, costs incurred in providing medical care,
10 counseling for the victim and family members of the victim and
11 rehabilitating the victim and costs incurred from the loss of income to the
12 victim.

13 2. A person who is imprisoned pursuant to this section must, insofar
14 as practicable, be segregated from offenders whose crimes were violent
15 and, insofar as practicable, be assigned to an institution or facility of
16 minimum security.

17 3. A prosecuting attorney shall not dismiss a charge of violating the
18 provisions of subsection 1 in exchange for a plea of guilty, guilty but
19 mentally ill or nolo contendere to a lesser charge or for any other reason
20 unless he knows or it is obvious that the charge is not supported by
21 probable cause or cannot be proved at the time of trial. Probation may
22 not be granted to a person sentenced pursuant to this section.

23 4. It is an affirmative defense to a violation of the provisions of
24 subsection 1 for having a detectable amount of a controlled substance or
25 its metabolite in his blood, urine or other bodily substance that:

26 (a) The defendant used the controlled substance in accordance with a
27 lawfully issued prescription if the defendant was not instructed not to
28 drive a vehicle while using the controlled substance by a provider of
29 health care or a container of or label on or information provided with the
30 controlled substance; or

31 (b) The only controlled substance or metabolite in the blood, urine or
32 other bodily substance of the defendant was opium that was the result of
33 the defendant legally ingesting poppy seeds.

34 5. If the defendant was transporting a person who is less than 15
35 years of age in the motor vehicle at the time of the violation, the court
36 shall consider that fact as an aggravating factor in determining the
37 sentence of the defendant.

38 6. As used in this section, "provider of health care" has the meaning
39 ascribed to it in NRS 629.031.

40 **Sec. 12. 1. A person who:**

41 (a) Is under the influence of a controlled substance;

42 (b) Is under the combined influence of intoxicating liquor and a
43 controlled substance; or

1 (c) Inhales, ingests, applies or otherwise uses any chemical, poison or
2 organic solvent, or any compound or combination of any of these,
3 to a degree which renders him impaired to any degree or incapable of
4 exercising actual physical control of a vehicle, or has a detectable
5 amount of a controlled substance or its metabolite in his blood, urine or
6 other bodily substance, and does any act or neglects any duty imposed by
7 law while driving or in actual physical control of any vehicle on or off
8 the highways of this state, if the act or neglect of duty proximately causes
9 the death of a person, is guilty of a category A felony and shall be
10 punished by imprisonment in the state prison for life with the possibility
11 of parole, with eligibility for parole beginning when a minimum of 20
12 years has been served, and shall be further punished by a fine of not less
13 than \$25,000. In addition to any other penalty, the court shall order the
14 person to pay restitution, including, without limitation, costs incurred in
15 providing medical care and counseling for family members of the victim
16 and the costs incurred for funeral expenses.

17 2. A person who is imprisoned pursuant to this section must, insofar
18 as practicable, be segregated from offenders whose crimes were violent
19 and, insofar as practicable, be assigned to an institution or facility of
20 minimum security.

21 3. A prosecuting attorney shall not dismiss a charge of violating the
22 provisions of subsection 1 in exchange for a plea of guilty, guilty but
23 mentally ill or nolo contendere to a lesser charge or for any other reason
24 unless he knows or it is obvious that the charge is not supported by
25 probable cause or cannot be proved at the time of trial. Probation may
26 not be granted to a person sentenced pursuant to this section.

27 4. It is an affirmative defense to a violation of the provisions of
28 subsection 1 for having a detectable amount of a controlled substance or
29 its metabolite in his blood, urine or other bodily substance that:

30 (a) The defendant used the controlled substance in accordance with a
31 lawfully issued prescription if the defendant was not instructed not to
32 drive a vehicle while using the controlled substance by a provider of
33 health care or a container of or label on or information provided with the
34 controlled substance; or

35 (b) The only controlled substance or metabolite in the blood, urine or
36 other bodily substance of the defendant was opium that was the result of
37 the defendant legally ingesting poppy seeds.

38 5. If the defendant was transporting a person who is less than 15
39 years of age in the motor vehicle at the time of the violation, the court
40 shall consider that fact as an aggravating factor in determining the
41 sentence of the defendant.

42 6. As used in this section, "provider of health care" has the meaning
43 ascribed to it in NRS 629.031.

1 **Sec. 13.** NRS 484.259 is hereby amended to read as follows:

2 484.259 Unless specifically made applicable, the provisions of this
3 chapter, except those relating to driving under the influence of controlled
4 substances or intoxicating liquor as provided in NRS 484.379, 484.3795
5 and 484.384 ~~§~~ **and sections 9, 11 and 12 of this act**, do not apply to
6 persons, teams, motor vehicles and other equipment while actually
7 engaged in work upon the surface of a highway but apply to such persons
8 and vehicles when traveling to or from such work.

9 **Sec. 14.** NRS 484.379 is hereby amended to read as follows:

10 484.379 1. It is unlawful for any person who:

11 (a) Is under the influence of intoxicating liquor;

12 (b) Has 0.10 percent or more by weight of alcohol in his blood; or

13 (c) Is found by measurement within 2 hours after driving or being in
14 actual physical control of a vehicle to have 0.10 percent or more by weight
15 of alcohol in his blood,

16 to drive or be in actual physical control of a vehicle on a highway or on
17 premises to which the public has access.

18 2. ~~It is unlawful for any person who is an habitual user of or under the~~
19 ~~influence of any controlled substance, or is under the combined influence~~
20 ~~of intoxicating liquor and a controlled substance, or any person who~~
21 ~~inhales, ingests, applies or otherwise uses any chemical, poison or organic~~
22 ~~solvent, or any compound or combination of any of these, to a degree~~
23 ~~which renders him incapable of safely driving or exercising actual physical~~
24 ~~control of a vehicle to drive or be in actual physical control of a vehicle on~~
25 ~~a highway or on premises to which the public has access. The fact that any~~
26 ~~person charged with a violation of this subsection is or has been entitled to~~
27 ~~use that drug under the laws of this state is not a defense against any~~
28 ~~charge of violating this subsection.~~

29 ~~3.~~ If consumption is proven by a preponderance of the evidence, it is
30 an affirmative defense under paragraph (c) of subsection 1 that the
31 defendant consumed a sufficient quantity of alcohol after driving or being
32 in actual physical control of the vehicle, and before his blood was tested, to
33 cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant
34 who intends to offer this defense at a trial or preliminary hearing must, not
35 less than 14 days before the trial or hearing or at such other time as the
36 court may direct, file and serve on the prosecuting attorney a written notice
37 of that intent.

38 **Sec. 15.** NRS 484.3791 is hereby amended to read as follows:

39 484.3791 1. In addition to any other penalty provided by law, a
40 person convicted of a violation of NRS 484.379 **or section 9 of this act** is
41 liable to the state for a civil penalty of \$35, payable to the department.

2. The department shall not issue any license to drive a motor vehicle to a person convicted of a violation of NRS 484.379 *or section 9 of this act* until the civil penalty is paid.

3. Any money received by the department pursuant to subsection 1 must be deposited with the state treasurer for credit to the fund for the compensation of victims of crime.

Sec. 16. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. ~~[A]~~ *Unless a greater penalty is provided pursuant to NRS 484.3795, a* person who violates the provisions of NRS 484.379:

(a) For the first offense, ~~[within 7 years,]~~ is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subsection 6, order him to pay tuition for an educational course on the abuse of alcohol ~~[and controlled substances]~~ approved by the department and complete the course within the time specified in the order, and the court shall notify the department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform 96 hours of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Fine him not less than \$200 nor more than \$1,000.

(b) For a second offense, ~~[within 7 years,]~~ is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court:

(1) Shall sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive, or 5.0755 to 5.078, inclusive;

(2) Shall fine him not less than \$500 nor more than \$1,000;

(3) Shall order him to perform not less than 100 hours, but not more than 200 hours, of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379, unless the court finds that extenuating circumstances exist; and

(4) May order him to attend a program of treatment for the abuse of alcohol ~~[or drugs]~~ pursuant to the provisions of NRS 484.37945.

A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

1 (c) For a third or subsequent offense, ~~{within 7 years,}~~ is guilty of a
2 category B felony and shall be punished by imprisonment in the state
3 prison for a minimum term of not less than 1 year and a maximum term of
4 not more than 6 years, and shall be further punished by a fine of not less
5 than \$2,000 nor more than \$5,000. An offender so imprisoned must,
6 insofar as practicable, be segregated from offenders whose crimes were
7 violent and, insofar as practicable, be assigned to an institution or facility
8 of minimum security.

9 2. An offense that occurred ~~{within 7 years immediately preceding}~~
10 **before** the date of the principal offense or after the principal offense
11 constitutes a prior offense for the purposes of this section when evidenced
12 by a conviction, without regard to the sequence of the offenses and
13 convictions. The facts concerning a prior offense must be alleged in the
14 complaint, indictment or information, must not be read to the jury or
15 proved at trial but must be proved at the time of sentencing and, if the
16 principal offense is alleged to be a felony, must also be shown at the
17 preliminary examination or presented to the grand jury.

18 3. A person convicted of violating the provisions of NRS 484.379
19 must not be released on probation, and a sentence imposed for violating
20 those provisions must not be suspended except, as provided in NRS 4.373,
21 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that
22 exceeds the mandatory minimum. A prosecuting attorney shall not dismiss
23 a charge of violating the provisions of NRS 484.379 in exchange for a plea
24 of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for
25 any other reason unless he knows or it is obvious that the charge is not
26 supported by probable cause or cannot be proved at the time of trial.

27 4. A term of confinement imposed pursuant to the provisions of this
28 section may be served intermittently at the discretion of the judge or justice
29 of the peace, except that a person who is convicted of a second or
30 subsequent offense ~~{within 7 years}~~ must be confined for at least one
31 segment of not less than 48 consecutive hours. This discretion must be
32 exercised after considering all the circumstances surrounding the offense,
33 and the family and employment of the offender, but any sentence of 30
34 days or less must be served within 6 months after the date of conviction or,
35 if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and
36 the suspension of his sentence was revoked, within 6 months after the date
37 of revocation. Any time for which the offender is confined must consist of
38 not less than 24 consecutive hours.

39 5. Jail sentences simultaneously imposed pursuant to this section and
40 NRS 483.560 or 485.330 must run consecutively.

6. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol ~~and controlled substances~~ approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol ~~and controlled substances~~ approved by the department within the time specified in the order, and the court shall notify the department if the person fails to complete the assigned course within the specified time.

7. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

8. As used in this section, unless the context otherwise requires, "offense" means a violation of NRS 484.379 or 484.3795 *or section 9, 11 or 12 of this act*, or a homicide resulting from the driving of a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 17. NRS 484.37937 is hereby amended to read as follows:

484.37937 1. Except as otherwise provided in subsection 2, a person who is found guilty of a first violation of NRS 484.379 may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism ~~for drug abuse~~ which is certified by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation for at least 6 months. The court shall authorize such treatment if:

(a) The person is diagnosed as an alcoholic ~~for abuser of drugs~~ by a:

(1) Counselor or other person certified to make that diagnosis by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation; or

(2) Physician certified to make that diagnosis by the board of medical examiners;

(b) He agrees to pay the cost of the treatment to the extent of his financial resources; and

(c) He has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 48 hours of work for the community.

2. A person may not apply to the court to undergo a program of treatment pursuant to subsection 1 if ~~[- within the immediately preceding 7 years.]~~ previously he has been found guilty of:

(a) A violation of NRS 484.3795 ~~[-]~~ or section 11 or 12 of this act;

(b) A homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance; or

(c) A violation of the law of any other jurisdiction which prohibits the same or similar conduct as set forth in paragraph (a) or (b).

3. For the purposes of subsection 1, a violation of the law of any other jurisdiction which prohibits the same or similar conduct as NRS 484.379 constitutes a violation of NRS 484.379.

4. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism. ~~[- for drug abuse.]~~ The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.

5. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

6. If the court grants an application for treatment, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than

1 the minimum fine provided for the offense in NRS 484.3792, but the
2 conviction must remain on his record of criminal history.

3 7. The court shall administer the program of treatment pursuant to the
4 procedures provided in NRS 458.320 and 458.330, except that the court:

5 (a) Shall not defer the sentence, set aside the conviction or impose
6 conditions upon the election of treatment except as provided in this
7 section.

8 (b) May immediately revoke the suspension of sentence for a violation
9 of any condition of the suspension.

10 8. The court shall notify the department, on a form approved by the
11 department, upon granting the application of the offender for treatment and
12 his failure to be accepted for or complete treatment.

13 **Sec. 18.** NRS 484.3794 is hereby amended to read as follows:

14 484.3794 1. Except as otherwise provided in subsection 2, a person
15 who is found guilty of a second violation of NRS 484.379 ~~{within 7 years}~~
16 may, at that time or any time before he is sentenced, apply to the court to
17 undergo a program of treatment for alcoholism ~~{or drug abuse}~~ which is
18 certified by the bureau of alcohol and drug abuse of the rehabilitation
19 division of the department of employment, training and rehabilitation for at
20 least 1 year if:

21 (a) He is diagnosed as an alcoholic ~~{or abuser of drugs}~~ by a:

22 (1) Counselor or other person certified to make that diagnosis by the
23 bureau of alcohol and drug abuse of the rehabilitation division of the
24 department of employment, training and rehabilitation; or

25 (2) Physician certified to make that diagnosis by the board of medical
26 examiners;

27 (b) He agrees to pay the costs of the treatment to the extent of his
28 financial resources; and

29 (c) He has served or will serve a term of imprisonment in jail of 5 days,
30 and if required pursuant to NRS 484.3792, has performed or will perform
31 not less than 50 hours, but not more than 100 hours, of work for the
32 community.

33 2. A person may not apply to the court to undergo a program of
34 treatment pursuant to subsection 1 if ~~{, within the immediately preceding 7~~
35 ~~years,}~~ *previously* he has been found guilty of:

36 (a) A violation of NRS 484.3795 ~~{;}~~ *or section 11 or 12 of this act;*

37 (b) A homicide resulting from driving a vehicle while under the
38 influence of intoxicating liquor or a controlled substance; or

39 (c) A violation of the law of any other jurisdiction which prohibits the
40 same or similar conduct as set forth in paragraph (a) or (b).

41 3. For the purposes of subsection 1, a violation of the law of any other
42 jurisdiction which prohibits the same or similar conduct as NRS 484.379
43 constitutes a violation of NRS 484.379.

1 4. A prosecuting attorney may, within 10 days after receiving notice of
2 an application for treatment pursuant to this section, request a hearing on
3 the matter. The court shall order a hearing on the application upon the
4 request of the prosecuting attorney or may order a hearing on its own
5 motion.

6 5. At the hearing on the application for treatment, the prosecuting
7 attorney may present the court with any relevant evidence on the matter. If
8 a hearing is not held, the court shall decide the matter upon affidavits and
9 other information before the court.

10 6. If the court determines that an application for treatment should be
11 granted, the court shall:

12 (a) Immediately sentence the offender and enter judgment accordingly ;

13 ~~H~~

14 (b) Suspend the sentence of the offender for not more than 3 years upon
15 the condition that the offender be accepted for treatment by a treatment
16 facility, that he complete the treatment satisfactorily and that he comply
17 with any other condition ordered by the court ~~H~~ ; and

18 (c) Advise the offender that:

19 (1) If he is accepted for treatment by such a facility, he may be
20 placed under the supervision of the facility for a period not to exceed 3
21 years and during treatment he may be confined in an institution or, at the
22 discretion of the facility, released for treatment or supervised aftercare in
23 the community.

24 (2) If he is not accepted for treatment by such a facility or he fails to
25 complete the treatment satisfactorily, he shall serve the sentence imposed
26 by the court. Any sentence of imprisonment must be reduced by a time
27 equal to that which he served before beginning treatment.

28 (3) If he completes the treatment satisfactorily, his sentence will be
29 reduced to a term of imprisonment which is no longer than that provided
30 for the offense in paragraph (c) of subsection 1 and a fine of not more than
31 the minimum provided for the offense in NRS 484.3792, but the
32 conviction must remain on his record of criminal history.

33 7. The court shall administer the program of treatment pursuant to the
34 procedures provided in NRS 458.320 and 458.330, except that the court:

35 (a) Shall not defer the sentence, set aside the conviction or impose
36 conditions upon the election of treatment except as provided in this
37 section.

38 (b) May immediately revoke the suspension of sentence for a violation
39 of a condition of the suspension.

40 8. The court shall notify the department, on a form approved by the
41 department, upon granting the application of the offender for treatment and
42 his failure to be accepted for or complete treatment.

Sec. 19. NRS 484.37943 is hereby amended to read as follows:

484.37943 1. If a person is found guilty of a first violation, if the weight of alcohol in the defendant's blood at the time of the offense was 0.18 percent or more, or any second violation of NRS 484.379 ~~{within 7 years,}~~ the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4 or 5 to determine whether he is an abuser of alcohol . ~~{for other drugs.}~~

2. If a person is convicted of a first violation of NRS 484.379 and he is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4 or 5 to determine whether he is an abuser of alcohol . ~~{for other drugs.}~~

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

(a) A counselor certified to make that evaluation by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation;

(b) A physician certified to make that evaluation by the board of medical examiners; or

(c) A person who is approved to make that evaluation by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation, who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

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

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

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

Sec. 20. NRS 484.37945 is hereby amended to read as follows:

484.37945 1. When a program of treatment is ordered pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the offender under the clinical supervision of a treatment facility for treatment for not less than 30 days nor more than 6 months, in accordance with the report submitted to the court pursuant to subsection 3, 4 or 5 of NRS 484.37943. The court may:

(a) Order the offender confined in a treatment facility, then release the offender for supervised aftercare in the community; or

(b) Release the offender for treatment in the community, for the period of supervision ordered by the court.

2. The court shall:

(a) Require the treatment facility to submit monthly progress reports on the treatment of an offender pursuant to this section; and

(b) Order the offender, to the extent of his financial resources, to pay any charges for his treatment pursuant to this section. If the offender does not have the financial resources to pay all of those charges, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.

3. A treatment facility is not liable for any damages to person or property caused by a person who drives while under the influence of intoxicating liquor ~~for a controlled substance~~ after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to paragraph (b) of subsection 1 of NRS 484.3792.

Sec. 21. NRS 484.3795 is hereby amended to read as follows:

484.3795 1. A person who:

(a) Is under the influence of intoxicating liquor;

(b) Has 0.10 percent or more by weight of alcohol in his blood; *or*

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have 0.10 percent or more by weight of alcohol in his blood, ~~;~~

~~—(d) Is under the influence of a controlled substance, or under the combined influence of intoxicating liquor and a controlled substance; or~~

~~—(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle,]~~

and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this state, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B

felony and shall be punished by imprisonment in the state prison for a

1 minimum term of not less than 2 years and a maximum term of not more
2 than 20 years and must be further punished by a fine of not less than
3 \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as
4 practicable, be segregated from offenders whose crimes were violent and,
5 insofar as practicable, be assigned to an institution or facility of minimum
6 security.

7 2. A prosecuting attorney shall not dismiss a charge of violating the
8 provisions of subsection 1 in exchange for a plea of guilty, guilty but
9 mentally ill or nolo contendere to a lesser charge or for any other reason
10 unless he knows or it is obvious that the charge is not supported by
11 probable cause or cannot be proved at the time of trial. A sentence imposed
12 pursuant to subsection 1 may not be suspended nor may probation be
13 granted.

14 3. If consumption is proven by a preponderance of the evidence, it is
15 an affirmative defense under paragraph (c) of subsection 1 that the
16 defendant consumed a sufficient quantity of alcohol after driving or being
17 in actual physical control of the vehicle, and before his blood was tested, to
18 cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant
19 who intends to offer this defense at a trial or preliminary hearing must, not
20 less than 14 days before the trial or hearing or at such other time as the
21 court may direct, file and serve on the prosecuting attorney a written notice
22 of that intent.

23 4. If the defendant was transporting a person who is less than 15 years
24 of age in the motor vehicle at the time of the violation, the court shall
25 consider that fact as an aggravating factor in determining the sentence of
26 the defendant.

27 **Sec. 22.** NRS 484.3796 is hereby amended to read as follows:

28 484.3796 1. Before sentencing an offender pursuant to ~~NRS~~
29 ~~484.3795 or~~ paragraph (c) of subsection 1 of NRS 484.3792 ~~§~~ **or NRS**
30 **484.3795 or section 9, 11 or 12 of this act**, the court shall require that the
31 offender be evaluated to determine whether he is an abuser of alcohol or
32 drugs and whether he can be treated successfully for his condition.

33 2. The evaluation must be conducted by:

34 (a) A counselor certified to make such an evaluation by the bureau of
35 alcohol and drug abuse of the rehabilitation division of the department of
36 employment, training and rehabilitation;

37 (b) A physician certified to make such an evaluation by the board of
38 medical examiners; or

39 (c) A psychologist certified to make such an evaluation by the board of
40 psychological examiners.

41 3. The counselor, physician or psychologist who conducts the
42 evaluation shall immediately forward the results of the evaluation to the
43 director of the department of prisons.

1 **Sec. 23.** NRS 484.3797 is hereby amended to read as follows:

2 484.3797 1. The judge or judges in each judicial district shall cause
3 the preparation and maintenance of a list of the panels of persons who:

4 (a) Have been injured or had members of their families or close friends
5 injured or killed by persons driving under the influence of an intoxicating
6 liquor or a controlled substance; and

7 (b) Have, by contacting the judge or judges in the district, expressed
8 their willingness to discuss collectively the personal effect of those
9 crimes.

10 The list must include the name and telephone number of the person to be
11 contacted regarding each such panel and a schedule of times and locations
12 of the meetings of each such panel. The judge or judges shall establish, in
13 cooperation with representatives of the members of the panels, a fee, if
14 any, to be paid by defendants who are ordered to attend a meeting of the
15 panel. The amount of the fee, if any, must be reasonable. The panel may
16 not be operated for profit.

17 2. Except as otherwise provided in this subsection, if a defendant
18 pleads guilty, ~~{or}~~ guilty but mentally ill *or nolo contendere* to, or is
19 found guilty of, any violation of NRS 484.379 or 484.3795 ~~{or}~~ *or section 9,*
20 *11 or 12 of this act*, the court shall, in addition to imposing any other
21 penalties provided by law, order the defendant to:

22 (a) Attend, at the defendant's expense, a meeting of a panel of persons
23 who have been injured or had members of their families or close friends
24 injured or killed by persons driving under the influence of an intoxicating
25 liquor or a controlled substance, in order to understand the effect such a
26 crime has on other persons; and

27 (b) Pay the fee, if any, established by the court pursuant to
28 subsection 1.

29 The court may, but is not required to, order the defendant to attend such a
30 meeting if one is not available within 60 miles of the defendant's
31 residence.

32 3. A person ordered to attend a meeting pursuant to subsection 2 shall,
33 after attending the meeting, present evidence or other documentation
34 satisfactory to the court that he attended the meeting and remained for its
35 entirety.

36 **Sec. 24.** NRS 484.3798 is hereby amended to read as follows:

37 484.3798 1. If a defendant pleads guilty, ~~{or}~~ guilty but mentally ill
38 *or nolo contendere* to, or is found guilty of, any violation of NRS 484.379
39 or 484.3795 *or section 9, 11 or 12 of this act* and a chemical analysis of
40 his blood, urine, breath or other bodily substance was conducted, the court
41 shall, in addition to any penalty provided by law, order the defendant to
42 pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise
43 provided in this subsection, any money collected for the chemical analysis

1 must not be deducted from, and is in addition to, any fine otherwise
2 imposed by the court and must be:

3 (a) Collected from the defendant before or at the same time that the fine
4 is collected.

5 (b) Stated separately in the judgment of the court or on the court's
6 docket.

7 2. All money collected pursuant to subsection 1 must be paid by the
8 clerk of the court to the county or city treasurer, as appropriate, on or
9 before the fifth day of each month for the preceding month.

10 3. The treasurer shall deposit all money received by him pursuant to
11 subsection 2 in the county or city treasury, as appropriate, for credit to the
12 fund for forensic services created pursuant to NRS 453.575. The money
13 must be accounted for separately within the fund.

14 4. Except as otherwise provided in subsection 5, each month the
15 treasurer shall, from the money credited to the fund pursuant to subsection
16 3, pay any amount owed for forensic services and deposit any remaining
17 money in the county or city general fund, as appropriate.

18 5. In counties that do not receive forensic services under a contract
19 with the state, the money credited to the fund pursuant to subsection 3:

20 (a) Except as otherwise provided in paragraph (b), must be:

21 (1) Expended to pay for the chemical analyses performed within the
22 county;

23 (2) Expended to purchase and maintain equipment to conduct such
24 analyses;

25 (3) Expended for the training and continuing education of the
26 employees who conduct such analyses; and

27 (4) Paid to law enforcement agencies which conduct such analyses to
28 be used by those agencies in the manner provided in this subsection.

29 (b) May only be expended to cover the costs of chemical analyses
30 conducted by, equipment used by, or training for employees of an
31 analytical laboratory that is approved by the committee on testing for
32 intoxication created in NRS 484.388.

33 **Sec. 25.** NRS 484.383 is hereby amended to read as follows:

34 484.383 1. Except as otherwise provided in subsections 3 and 4, any
35 person who drives or is in actual physical control of a vehicle on a
36 highway or on premises to which the public has access shall be deemed to
37 have given his consent to an evidentiary test of his blood, urine, breath or
38 other bodily substance for the purpose of determining the alcoholic content
39 of his blood or breath or the presence of a controlled substance *or its*
40 *metabolite* when such a test is administered at the direction of a police
41 officer having reasonable grounds to believe that the person to be tested
42 was driving or in actual physical control of a vehicle while under the
43 influence of intoxicating liquor or a controlled substance.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the alcoholic content of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, he must pay for the cost of the blood test, including the fees and expenses of witnesses in court.

(c) A police officer may direct the person to submit to a blood test as set forth in subsection 7 if the officer has reasonable grounds to believe that the person:

(1) Caused death or substantial bodily harm to another person as a result of driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; or

(2) ~~Has~~ **Previously has** been convicted ~~{within the previous 7 years}~~

of:

(I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 **or section 9, 11 or 12 of this act** or a law of another jurisdiction that prohibits the same or similar conduct; or

(II) Any other offense in this state or another jurisdiction in which death or substantial bodily harm to another person resulted from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance.

5. If the presence of a controlled substance **or its metabolite** in the blood of the person is in issue, the officer may direct him to submit to a blood or urine test, or both, in addition to the breath test.

6. Except as otherwise provided in subsections 3 and 5, a police officer shall not direct a person to submit to a urine test.

7. If a person to be tested fails to submit to a required test as directed by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or a controlled substance, the officer may direct that

1 reasonable force be used to the extent necessary to obtain samples of blood
2 from the person to be tested. Not more than three such samples may be
3 taken during the 5-hour period immediately following the time of the
4 initial arrest. In such a circumstance, the officer is not required to provide
5 the person with a choice of tests for determining the alcoholic content or
6 presence of a controlled substance *or its metabolite* in his blood.

7 8. If a person who is less than 18 years of age is directed to submit to
8 an evidentiary test pursuant to this section, the officer shall, before testing
9 the person, make a reasonable attempt to notify the parent, guardian or
10 custodian of the person, if known.

11 **Sec. 26.** NRS 484.3945 is hereby amended to read as follows:

12 484.3945 1. A person required to install a device pursuant to NRS
13 484.3943 shall not operate a motor vehicle without a device or tamper with
14 the device.

15 2. A person who violates any provision of subsection 1:

16 (a) Must have his driving privilege revoked in the manner set forth in
17 subsection ~~44~~ 5 of NRS 483.460; and

18 (b) Shall be:

19 (1) Punished by imprisonment in jail for not less than 30 days nor
20 more than 6 months; or

21 (2) Sentenced to a term of not less than 60 days in residential
22 confinement nor more than 6 months, and by a fine of not less than \$500
23 nor more than \$1,000.

24 No person who is punished pursuant to this section may be granted
25 probation and no sentence imposed for such a violation may be suspended.
26 No prosecutor may dismiss a charge of such a violation in exchange for a
27 plea of guilty, of guilty but mentally ill or of nolo contendere to a lesser
28 charge or for any other reason unless, in his judgment, the charge is not
29 supported by probable cause or cannot be proved at trial.

30 **Sec. 27.** NRS 484.791 is hereby amended to read as follows:

31 484.791 1. Any peace officer may, without a warrant, arrest a person
32 if the officer has reasonable cause for believing that the person has
33 committed any of the following offenses:

34 (a) Homicide by vehicle;

35 (b) Driving or being in actual physical control of a vehicle while under
36 the influence of intoxicating liquor or with 0.10 percent or more by weight
37 of alcohol in his blood;

38 (c) Driving or being in actual physical control of a vehicle while under
39 the influence of any controlled substance, under the combined influence of
40 intoxicating liquor and a controlled substance, or after ingesting, applying

1 or otherwise using any chemical, poison or organic solvent, or any
2 compound or combination of any of these, to a degree which renders the
3 person ~~incapable of safely driving or~~ **impaired to any degree or**
4 exercising actual physical control of a vehicle;

5 (d) **Driving or being in actual physical control of a vehicle with a**
6 **detectable amount of a controlled substance or its metabolite in his**
7 **blood, urine or other bodily substance;**

8 (e) Failure to stop, give information or render reasonable assistance in
9 the event of an accident resulting in death or personal injuries, as
10 prescribed in NRS 484.219 and 484.223;

11 ~~(e)~~ (f) Failure to stop or give information in the event of an accident
12 resulting in damage to a vehicle or to other property legally upon or
13 adjacent to a highway, as prescribed in NRS 484.221 and 484.225;

14 ~~(f)~~ (g) Reckless driving;

15 ~~(g)~~ (h) Driving a motor vehicle on a highway or on premises to which
16 the public has access at a time when his driver's license has been canceled,
17 revoked or suspended; or

18 ~~(h)~~ (i) Driving a motor vehicle in any manner in violation of the
19 restrictions imposed in a restricted license issued to him pursuant to NRS
20 483.490.

21 2. Whenever any person is arrested as authorized in this section he
22 must be taken without unnecessary delay before the proper magistrate as
23 specified in NRS 484.803, except that in the case of either of the offenses
24 designated in ~~paragraphs (e) and (f)~~ **paragraph (f) or (g) of subsection 1**
25 a peace officer has the same discretion as is provided in other cases in NRS
26 484.795.

27 **Sec. 28.** NRS 484.801 is hereby amended to read as follows:

28 484.801 Except for felonies and those offenses set forth in paragraphs
29 (a) to ~~(d)~~ **(e)**, inclusive, of subsection 1 of NRS 484.791, a peace officer
30 at the scene of a traffic accident may issue a written traffic citation, as
31 provided in NRS 484.799, or a misdemeanor citation, as provided in NRS
32 171.1773, to any person involved in the accident when, based upon
33 personal investigation, the peace officer has reasonable and probable
34 grounds to believe that the person has committed any offense under the
35 provisions of this chapter or of chapter 482, 483, 485, 486 or 706 of NRS
36 in connection with the accident.

37 **Sec. 29.** NRS 484.805 is hereby amended to read as follows:

38 484.805 Whenever any person is taken into custody by a peace officer
39 for the purpose of taking him before a magistrate or court as authorized or
40 required in this chapter upon any charge other than a felony or the offenses
41 enumerated in paragraphs (a) to ~~(d)~~ **(e)**, inclusive, of subsection 1 of
42 NRS 484.791, and no magistrate is available at the time of arrest, and there
43 is no bail schedule established by the magistrate or court and no lawfully

1 designated court clerk or other public officer who is available and
2 authorized to accept bail upon behalf of the magistrate or court, the person
3 must be released from custody upon the issuance to him of a written
4 misdemeanor citation or traffic citation and his signing a promise to
5 appear, as provided in NRS 171.1773 or 484.799, respectively.

6 **Sec. 30.** NRS 488.460 is hereby amended to read as follows:

7 488.460 1. Except as otherwise provided in subsections 3 and 4, a
8 person who operates or is in actual physical control of a vessel under
9 power or sail on the waters of this state shall be deemed to have given his
10 consent to an evidentiary test of his blood, urine, breath or other bodily
11 substance for the purpose of determining the alcoholic content of his blood
12 or breath or the presence of a controlled substance *or its metabolite* when
13 such a test is administered at the direction of a peace officer having
14 reasonable grounds to believe that the person to be tested was operating or
15 in actual physical control of a vessel under power or sail while under the
16 influence of intoxicating liquor or a controlled substance.

17 2. If the person to be tested pursuant to subsection 1 is dead or
18 unconscious, the officer shall direct that samples of blood from the person
19 be tested.

20 3. Any person who is afflicted with hemophilia or with a heart
21 condition requiring the use of an anticoagulant as determined by a
22 physician is exempt from any blood test which may be required pursuant to
23 this section, but must, when appropriate pursuant to the provisions of this
24 section, be required to submit to a breath or urine test.

25 4. If the alcoholic content of the blood or breath of the person to be
26 tested is in issue:

27 (a) Except as otherwise provided in this section, the person may refuse
28 to submit to a blood test if means are reasonably available to perform a
29 breath test.

30 (b) The person may request a blood test, but if means are reasonably
31 available to perform a breath test when the blood test is requested, and the
32 person is subsequently convicted, he must pay for the cost of the blood
33 test, including the fees and expenses of witnesses in court.

34 (c) A peace officer may direct the person to submit to a blood test as set
35 forth in subsection 7 if the officer has reasonable grounds to believe that
36 the person:

37 (1) Caused death or substantial bodily harm to another person as a
38 result of operating or being in actual physical control of a vessel under
39 power or sail while under the influence of intoxicating liquor or a
40 controlled substance; or

41 (2) ~~{Has}~~ *Previously has* been convicted ~~{within the previous 7 years}~~
42 of:

1 (I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS
2 488.400, NRS 488.410 or 488.420 *or section 9, 11 or 12 of this act* or a
3 law of another jurisdiction that prohibits the same or similar conduct; or

4 (II) Any other offense in this state or another jurisdiction in which
5 death or substantial bodily harm to another person resulted from driving,
6 operating or being in actual physical control of a vehicle or a vessel under
7 power or sail while under the influence of intoxicating liquor or a
8 controlled substance.

9 5. If the presence of a controlled substance *or its metabolite* in the
10 blood of the person is in issue, the officer may direct him to submit to a
11 blood or urine test, or both, in addition to the breath test.

12 6. Except as otherwise provided in subsections 3 and 5, a peace officer
13 shall not direct a person to submit to a urine test.

14 7. If a person to be tested fails to submit to a required test as directed
15 by a peace officer pursuant to this section and the officer has reasonable
16 grounds to believe that the person to be tested was operating or in actual
17 physical control of a vessel under power or sail while under the influence
18 of intoxicating liquor or a controlled substance, the officer may direct that
19 reasonable force be used to the extent necessary to obtain samples of blood
20 from the person to be tested. Not more than three such samples may be
21 taken during the 5-hour period immediately following the time of the
22 initial arrest. In such a circumstance, the officer is not required to provide
23 the person with a choice of tests for determining the alcoholic content or
24 presence of a controlled substance *or its metabolite* in his blood.

25 **Sec. 31.** NRS 42.010 is hereby amended to read as follows:

26 42.010 1. In an action for the breach of an obligation, where the
27 defendant caused an injury by the operation of a motor vehicle in violation
28 of NRS 484.379 or 484.3795 *or section 9, 11 or 12 of this act* after
29 willfully consuming or using alcohol or another substance, knowing that
30 he would thereafter operate the motor vehicle, the plaintiff, in addition to
31 the compensatory damages, may recover damages for the sake of example
32 and by way of punishing the defendant.

33 2. The provisions of NRS 42.005 do not apply to any cause of action
34 brought pursuant to this section.

35 **Sec. 32.** Chapter 62 of NRS is hereby amended by adding thereto a
36 new section to read as follows:

37 *In addition to any other action authorized pursuant to the provisions*
38 *of this chapter, if a child who is less than 18 years of age is found by the*
39 *juvenile court to have committed the unlawful act of driving under the*
40 *influence of a controlled substance in violation of section 9, 11 or 12 of*
41 *this act, the court shall:*

1 **1. Order the child to pay of fine of not less than \$500 pursuant to**
2 **paragraph (l) of subsection 1 of NRS 62.211 and the administrative**
3 **assessment required pursuant to NRS 62.223;**

4 **2. Order the child to attend a meeting of a panel of persons**
5 **established pursuant to NRS 484.3797 who have been injured or had**
6 **members of their families or close friends injured or killed by persons**
7 **driving under the influence of an intoxicating liquor or a controlled**
8 **substance, in order to understand the effect that such a crime has on**
9 **other persons; and**

10 **3. Pay the fee, if any, established pursuant to subsection 1 of NRS**
11 **484.3797.**

12 **Sec. 33.** NRS 62.020 is hereby amended to read as follows:

13 62.020 As used in this chapter, unless the context otherwise requires:

14 1. Except as otherwise provided in this subsection, “child” means a
15 person who is:

16 (a) Less than 18 years of age; or

17 (b) Less than 21 years of age and subject to the jurisdiction of the
18 juvenile court for an act of delinquency that was committed before the
19 person reached 18 years of age.

20 The term does not include a person who is excluded from the jurisdiction
21 of the juvenile court pursuant to NRS 62.040 or a person who is certified
22 for criminal proceedings as an adult pursuant to NRS 62.080 or 62.081.

23 2. “Court” means the juvenile division of the district court.

24 3. “Indian child” has the meaning ascribed to it in 25 U.S.C. § 1903.

25 4. “Indian Child Welfare Act” means the Indian Child Welfare Act of
26 1978, ~~§~~ 25 U.S.C. §§ 1901 et seq. ~~§~~

27 5. “Judge” means the judge of the juvenile division of the district
28 court.

29 6. “Juvenile court” or “juvenile division” means:

30 (a) In any judicial district that includes a county whose population is
31 100,000 or more, the family division of the district court; or

32 (b) In any other judicial district, the juvenile division of the district
33 court.

34 7. “Minor traffic offense” means a violation of any state or local law,
35 ordinance or resolution governing the operation of a motor vehicle upon
36 any street, alley or highway within this state other than:

37 (a) A violation of chapter 484 or 706 of NRS that causes the death of a
38 person;

39 (b) Driving a motor vehicle while under the influence of intoxicating
40 liquor ~~[, a controlled substance or a drug]~~ in violation of NRS 484.379; or

41 (c) Any traffic offense declared to be a felony.

Sec. 34. NRS 62.040 is hereby amended to read as follows:

62.040 1. Except if the child involved is subject to the exclusive jurisdiction of an Indian tribe, and except as otherwise provided in this chapter, the court has exclusive original jurisdiction in proceedings:

(a) Concerning any child living or found within the county who is in need of supervision because he:

(1) Is a child who is subject to compulsory school attendance and is a habitual truant from school;

(2) Habitually disobeys the reasonable and lawful demands of his parents, guardian or other custodian, and is unmanageable; or

(3) Deserts, abandons or runs away from his home or usual place of abode,

and is in need of care or rehabilitation. The child must not be considered a delinquent.

(b) Concerning any child living or found within the county who has committed a delinquent act. A child commits a delinquent act if he violates a county or municipal ordinance or any rule or regulation having the force of law, or he commits an act designated a crime under the law of the State of Nevada.

(c) Concerning any child in need of commitment to an institution for the mentally retarded.

2. For the purposes of subsection 1, each of the following acts shall be deemed not to be a delinquent act, and the court does not have jurisdiction of a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense.

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

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

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

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

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

and

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

5 (d) *Driving under the influence of a controlled substance that results*
6 *in the death of a person in violation of section 12 of this act.*

7 (e) Any other offense if, before the offense was committed, the person
8 previously had been convicted of a criminal offense.

9 3. If a child is charged with a minor traffic offense, the court may
10 transfer the case and record to a justice's or municipal court if the judge
11 determines that it is in the best interest of the child. If a case is so
12 transferred:

13 (a) The restrictions set forth in subsection 4 of NRS 62.170 are
14 applicable in those proceedings; and

15 (b) The child must be accompanied at all proceedings by a parent or
16 legal guardian.

17 With the consent of the judge of the juvenile division, the case may be
18 transferred back to the juvenile court.

19 **Sec. 35.** NRS 62.080 is hereby amended to read as follows:

20 62.080 1. Except as otherwise provided in ~~subsection~~ *subsections* 2
21 *and 3* and NRS 62.081, if:

22 (a) A child is charged with an offense that would be a felony if
23 committed by an adult; and

24 (b) The child was 14 years of age or older at the time he allegedly
25 committed the offense,
26 the juvenile court, upon a motion by the district attorney and after a full
27 investigation, may retain jurisdiction or certify the child for proper
28 criminal proceedings to any court that would have jurisdiction to try the
29 offense if committed by an adult.

30 2. If a child:

31 (a) Is charged with:

32 (1) A sexual assault involving the use or threatened use of force or
33 violence against the victim; or

34 (2) An offense or attempted offense involving the use or threatened
35 use of a firearm; and

36 (b) Was 14 years of age or older at the time he allegedly committed the
37 offense,

38 the juvenile court, upon a motion by the district attorney and after a full
39 investigation, shall certify the child for proper criminal proceedings to any
40 court that would have jurisdiction to try the offense if committed by an

1 adult, unless the court specifically finds by clear and convincing evidence
2 that the child's actions were substantially the result of his substance abuse
3 or emotional or behavioral problems and such substance abuse or problems
4 may be appropriately treated through the jurisdiction of the juvenile court.

5 **3. *Upon a motion by the district attorney and after a full***
6 ***investigation, the juvenile court may certify a child who is charged with***
7 ***driving under the influence of a controlled substance that results in***
8 ***serious bodily harm to another person pursuant to section 11 of this act***
9 ***for proper criminal proceedings to any court that would have jurisdiction***
10 ***to try the offense if committed by an adult.***

11 **4.** If a child is certified for criminal proceedings as an adult pursuant to
12 subsection 1 ~~1 or 2,~~ **2 or 3** the court shall also certify the child for
13 criminal proceedings as an adult for any other related offense arising out of
14 the same facts as the offense for which the child was certified, regardless
15 of the nature of the related offense.

16 ~~4.~~ **5.** If a child has been certified for criminal proceedings as an adult
17 pursuant to subsection 1 ~~1 or~~, **2 or 3** and his case has been transferred out
18 of the juvenile court, original jurisdiction of his person for that case rests
19 with the court to which the case has been transferred, and the child may
20 petition for transfer of his case back to the juvenile court only upon a
21 showing of exceptional circumstances. If the child's case is transferred
22 back to the juvenile court, the judge of that court shall determine whether
23 the exceptional circumstances warrant accepting jurisdiction.

24 **Sec. 36.** NRS 62.227 is hereby amended to read as follows:

25 62.227 1. If a child who is less than 18 years of age is found by the
26 juvenile court to have committed the unlawful act of driving under the
27 influence of intoxicating liquor ~~for a controlled substance~~ in violation of
28 NRS 484.379 or 484.3795, the judge, or his authorized representative,
29 shall, if the child possesses a driver's license, issue an order revoking the
30 driver's license of that child for 90 days. ~~If such an order is issued, the~~
31 ~~judge shall require the child to surrender to the court all driver's licenses~~
32 ~~then held by the child. The court shall, within 5 days after issuing the~~
33 ~~order, forward to the department of motor vehicles and public safety the~~
34 ~~licenses and a copy of the order.~~

35 **2. *If a child who is less than 18 years of age is found by the juvenile***
36 ***court to have committed the unlawful act of driving under the influence***
37 ***of a controlled substance in violation of section 9 of this act and:***

38 ***(a) The violation does not result in an accident, the judge, or his***
39 ***authorized representative, shall, if the child possesses a driver's license,***
40 ***issue an order revoking the driver's license of that child for 2 years; or***

1 ***(b) The violation results in an accident, the judge, or his authorized***
2 ***representative, shall, if the child possesses a driver's license, issue an***
3 ***order revoking the driver's license of that child for 3 years.***

4 ***If the child does not possess a driver's license, the judge, or his***
5 ***authorized representative, shall issue an order prohibiting the child from***
6 ***applying for a driver's license until the child reaches the age of 18 years.***

7 ***3. If a child who is less than 18 years of age is found by the juvenile***
8 ***court to have committed the unlawful act of driving under the influence***
9 ***of a controlled substance in violation of section 11 of this act, the judge,***
10 ***or his authorized representative, shall, if the child possesses a driver's***
11 ***license, issue an order revoking the driver's license of that child for 3***
12 ***years. If the child does not possess a driver's license, the judge, or his***
13 ***authorized representative, shall issue an order prohibiting the child from***
14 ***applying for a driver's license until the child reaches the age of 21 years.***

15 ***4. If an order revoking a driver's license is issued pursuant to this***
16 ***section the judge shall require the child to surrender to the court all***
17 ***driver's licenses then held by the child. The court shall, within 5 days***
18 ***after issuing the order, forward to the department of motor vehicles and***
19 ***public safety the licenses and a copy of the order.***

20 ***5. The judge shall require the child to submit to the tests and other***
21 ***requirements which are adopted by regulation pursuant to subsection 1 of***
22 ***NRS 483.495 as a condition of reinstatement of the driver's license of the***
23 ***child.***

24 ~~***3.1***~~ ***6. If the child is found to have committed a subsequent unlawful***
25 ***act as set forth in subsection 1, the court shall order an additional period of***
26 ***revocation to apply consecutively with the previous order.***

27 ~~***4.1***~~ ***7. The judge may authorize the department to issue a restricted***
28 ***driver's license pursuant to NRS 483.490 to a child whose driver's license***
29 ***is revoked pursuant to this section.***

30 **Sec. 37.** NRS 62.2275 is hereby amended to read as follows:

31 62.2275 1. If a child within the jurisdiction of the juvenile court is
32 found by the juvenile court to have committed the unlawful act of:

33 (a) Driving under the influence of intoxicating liquor or a controlled
34 substance in violation of NRS 484.379 or 484.3795 ~~***6.1***~~ ***or section 9 or 11***
35 ***of this act;***

36 (b) Using, possessing, selling or distributing a controlled substance; or

37 (c) Purchasing, consuming or possessing an alcoholic beverage in
38 violation of NRS 202.020,

39 the judge, or his authorized representative, shall require the child to
40 undergo an evaluation to determine if the child is an abuser of alcohol or
41 other drugs.

2. The evaluation of a child pursuant to this section:

(a) Must be conducted by:

(1) A counselor certified to make that classification by the bureau of alcohol and drug abuse;

(2) A physician certified to make that classification by the board of medical examiners; or

(3) A person who is approved to make that classification by the bureau of alcohol and drug abuse, who shall report to the judge the results of the evaluation and make a recommendation to the judge concerning the length and type of treatment required by the child.

(b) May be conducted at an evaluation center.

3. The judge shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducted the evaluation pursuant to subsection 2.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child, if he is at least 18 years of age or an emancipated minor, or the parent or legal guardian of the child, to the extent of the financial resources of the child or his parent or legal guardian, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child, or his parent or legal guardian, does not have the financial resources to pay all of those charges:

(1) The judge shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The judge may order the child to perform supervised work for the benefit of the community in lieu of paying the charges relating to his evaluation and treatment. The work must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents. The court may require the child or his parent or legal guardian to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the child performs the work, unless, in the case of industrial insurance, it is provided by the authority for which he performs the work.

4. A treatment facility is not liable for any damages to person or property caused by a child who drives while under the influence of an intoxicating liquor or a controlled substance after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to this section.

1 5. The provisions of this section do not prohibit a judge from:

2 (a) Requiring an evaluation to be conducted by a person who is
3 employed by a private company if the company meets the standards of the
4 bureau of alcohol and drug abuse. Such an evaluation may be conducted at
5 an evaluation center pursuant to paragraph (b) of subsection 2.

6 (b) Ordering the child to attend a program of treatment which is
7 administered by a private company.

8 6. All information relating to the evaluation or treatment of a child
9 pursuant to this section is confidential and, except as otherwise authorized
10 by the provisions of this chapter or the juvenile court, must not be
11 disclosed to any person other than the juvenile court, the child and his
12 attorney, if any, his parents or guardian, the prosecuting attorney and any
13 other person for whom the communication of that information is necessary
14 to effectuate the evaluation or treatment of the child. A record of any
15 finding that a child has violated the provisions of NRS 484.379 or
16 484.3795 must be included in the driver's record of that child for 7 years
17 after the date of the offense.

18 7. As used in this section:

19 (a) "Bureau of alcohol and drug abuse" means the bureau of alcohol
20 and drug abuse in the rehabilitation division of the department of
21 employment, training and rehabilitation.

22 (b) "Evaluation center" has the meaning ascribed to it in NRS
23 484.3793.

24 (c) "Treatment facility" has the meaning ascribed to it in NRS
25 484.3793.

26 **Sec. 38.** NRS 207.012 is hereby amended to read as follows:

27 207.012 1. A person who:

28 (a) Has been convicted in this state of a felony listed in subsection 2;
29 and

30 (b) Before the commission of that felony, was twice convicted of any
31 crime which under the laws of the situs of the crime or of this state would
32 be a felony listed in subsection 2, whether the prior convictions occurred in
33 this state or elsewhere,

34 is a habitual felon and shall be punished for a category A felony by
35 imprisonment in the state prison:

36 (1) For life without the possibility of parole;

37 (2) For life with the possibility of parole, with eligibility for parole
38 beginning when a minimum of 10 years has been served; or

39 (3) For a definite term of 25 years, with eligibility for parole
40 beginning when a minimum of 10 years has been served.

41 2. The district attorney shall include a count under this section in any
42 information or shall file a notice of habitual felon if an indictment is found,
43 if each prior conviction and the alleged offense committed by the accused

1 constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1
2 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.320, 200.330,
3 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400,
4 NRS 200.410, subsection 3 of NRS 200.450, subsection 4 of NRS
5 200.460, NRS 200.465, subsection 2 of NRS 200.508, NRS 200.710,
6 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS
7 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of
8 NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4
9 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of
10 NRS 212.090, NRS 453.333, 484.219 or 484.3795 ~~H~~ or section 11 or 12
11 of this act.

12 3. The trial judge may not dismiss a count under this section that is
13 included in an indictment or information.

14 **Sec. 39.** NRS 209.392 is hereby amended to read as follows:

15 209.392 1. Except as otherwise provided in NRS 209.3925 and
16 209.429, the director may, at the request of an offender who is eligible for
17 residential confinement pursuant to the standards adopted by the director
18 pursuant to subsection 3 and who has:

- 19 (a) Established a position of employment in the community;
20 (b) Enrolled in a program for education or rehabilitation; or
21 (c) Demonstrated an ability to pay for all or part of the costs of his
22 confinement and to meet any existing obligation for restitution to any
23 victim of his crime,

24 assign the offender to the custody of the division of parole and probation
25 of the department of motor vehicles and public safety to serve a term of
26 residential confinement, pursuant to NRS 213.380, for not longer than the
27 remainder of his sentence.

28 2. Upon receiving a request to serve a term of residential confinement
29 from an eligible offender, the director shall notify the division of parole
30 and probation. If any victim of a crime committed by the offender has,
31 pursuant to subsection 3 of NRS 213.130, requested to be notified of an
32 application for parole and has provided a current address, the division of
33 parole and probation shall notify the victim of the offender's request and
34 advise the victim that he may submit documents regarding the request to
35 the division of parole and probation. If a current address has not been
36 provided as required by subsection 3 of NRS 213.130, the division of
37 parole and probation must not be held responsible if such notification is
38 not received by the victim. All personal information, including, but not
39 limited to, a current or former address, which pertains to a victim and
40 which is received by the division of parole and probation pursuant to this
41 subsection is confidential.

42 3. The director, after consulting with the division of parole and
43 probation, shall adopt, by regulation, standards providing which offenders

1 are eligible for residential confinement. The standards adopted by the
2 director must provide that an offender who:

3 (a) Is not eligible for parole or release from prison within a reasonable
4 period;

5 (b) Has recently committed a serious infraction of the rules of an
6 institution or facility of the department;

7 (c) Has not performed the duties assigned to him in a faithful and
8 orderly manner;

9 (d) Has ever been convicted of:

10 (1) Any crime involving the use or threatened use of force or
11 violence against the victim; or

12 (2) A sexual offense;

13 (e) Has more than one prior conviction for any felony in this state or
14 any offense in another state that would be a felony if committed in this
15 state, not including a violation of NRS 484.3792 or 484.3795 ~~§~~ or section
16 9, 11 or 12 of this act;

17 (f) Has escaped or attempted to escape from any jail or correctional
18 institution for adults; or

19 (g) Has not made an effort in good faith to participate in or to complete
20 any educational or vocational program or any program of treatment, as
21 ordered by the director,

22 is not eligible for assignment to the custody of the division of parole and
23 probation to serve a term of residential confinement pursuant to this
24 section.

25 4. If an offender assigned to the custody of the division of parole and
26 probation pursuant to this section escapes or violates any of the terms or
27 conditions of his residential confinement:

28 (a) The division of parole and probation may, pursuant to the procedure
29 set forth in NRS 213.410, return the offender to the custody of the
30 department.

31 (b) The offender forfeits all or part of the credits for good behavior
32 earned by him before the escape or violation, as determined by the
33 director. The director may provide for a forfeiture of credits pursuant to
34 this paragraph only after proof of the offense and notice to the offender,
35 and may restore credits forfeited for such reasons as he considers proper.
36 The decision of the director regarding such a forfeiture is final.

37 5. The assignment of an offender to the custody of the division of
38 parole and probation pursuant to this section shall be deemed:

39 (a) A continuation of his imprisonment and not a release on parole; and

40 (b) For the purposes of NRS 209.341, an assignment to a facility of the
41 department,

1 except that the offender is not entitled to obtain any benefits or to
2 participate in any programs provided to offenders in the custody of the
3 department.

4 6. An offender does not have a right to be assigned to the custody of
5 the division of parole and probation pursuant to this section, or to remain
6 in that custody after such an assignment, and it is not intended that the
7 provisions of this section or of NRS 213.371 to 213.410, inclusive, create
8 any right or interest in liberty or property or establish a basis for any cause
9 of action against the state, its political subdivisions, agencies, boards,
10 commissions, departments, officers or employees.

11 **Sec. 40.** NRS 209.425 is hereby amended to read as follows:

12 209.425 1. The director shall, with the approval of the board,
13 establish a program for the treatment of an abuser of alcohol or drugs who
14 is imprisoned pursuant to paragraph (c) of subsection 1 of NRS 484.3792
15 or NRS 484.3795 ~~H~~ *or section 10, 11 or 12 of this act*. The program must
16 include an initial period of intensive mental and physical rehabilitation in a
17 facility of the department, followed by regular sessions of education,
18 counseling and any other necessary or desirable treatment.

19 2. The director may, upon the request of the offender after the initial
20 period of rehabilitation, allow the offender to earn wages under any other
21 program established by the department if the offender assigns to the
22 department any wages he earns under such a program. The director may
23 deduct from the wages of the offender an amount determined by the
24 director, with the approval of the board, to:

25 (a) Offset the costs, as reflected in the budget of the department, to
26 maintain the offender in a facility or institution of the department and in
27 the program of treatment established pursuant to this section; and

28 (b) Meet any existing obligation of the offender for the support of his
29 family or restitution to any victim of his crime.

30 **Sec. 41.** NRS 209.481 is hereby amended to read as follows:

31 209.481 1. The director shall not assign any prisoner to an institution
32 or facility of minimum security if the prisoner:

33 (a) Except as otherwise provided in NRS 484.3792 and 484.3795 ~~H~~
34 *and sections 10, 11 and 12 of this act*, is not eligible for parole or release
35 from prison within a reasonable period;

36 (b) Has recently committed a serious infraction of the rules of an
37 institution or facility of the department of prisons;

38 (c) Has not performed the duties assigned to him in a faithful and
39 orderly manner;

40 (d) Has been convicted of a sexual offense;

41 (e) Has committed an act of serious violence during the previous year;

42 or

1 (f) Has attempted to escape or has escaped from an institution of the
2 department of prisons.

3 2. The director shall, by regulation, establish procedures for
4 classifying and selecting qualified prisoners.

5 **Sec. 42.** NRS 217.070 is hereby amended to read as follows:

6 217.070 "Victim" means:

7 1. A person who is physically injured or killed as the direct result of a
8 criminal act;

9 2. A minor who was involved in the production of pornography in
10 violation of NRS 200.710, 200.720, 200.725 or 200.730;

11 3. A minor who was sexually abused, as "sexual abuse" is defined in
12 NRS 432B.100;

13 4. A person who is physically injured or killed as the direct result of a
14 violation of NRS 484.379 *or section 9 of this act* or any act or neglect of
15 duty punishable pursuant to NRS 484.3795 ~~or~~ *or section 11 or 12 of this*
16 *act;*

17 5. A pedestrian who is physically injured or killed as the direct result
18 of a driver of a motor vehicle who failed to stop at the scene of an accident
19 involving the driver and the pedestrian in violation of NRS 484.219; or

20 6. A resident who is physically injured or killed as the direct result of
21 an act of international terrorism as defined in 18 U.S.C. § 2331(1).

22 The term includes a person who was harmed by any of these acts whether
23 the act was committed by an adult or a minor.

24 **Sec. 43.** NRS 217.220 is hereby amended to read as follows:

25 217.220 1. Except as otherwise provided in subsections 2, 3 and 4,
26 compensation must not be awarded if the victim:

27 (a) Was injured or killed as a result of the operation of a motor vehicle,
28 boat or airplane unless the vehicle, boat or airplane was used as a weapon
29 in a deliberate attempt to harm the victim or unless the driver of the vehicle
30 injured a pedestrian, violated any of the provisions of NRS 484.379 *or*
31 *section 9 of this act* or the use of the vehicle was punishable pursuant to
32 NRS 484.3795 ~~or~~ *or section 11 or 12 of this act;*

33 (b) Was not a citizen of the United States or was not lawfully entitled to
34 reside in the United States at the time the incident upon which the claim is
35 based occurred or he is unable to provide proof that he was a citizen of the
36 United States or was lawfully entitled to reside in the United States at that
37 time;

38 (c) Was a coconspirator, codefendant, accomplice or adult passenger of
39 the offender whose crime caused the victim's injuries;

40 (d) Was not a resident at the time he was victimized, unless he was
41 injured in this state and the board determines that the State of Nevada has a
42 sufficient amount of money to pay for the claim from money received
43 from the Federal Government for the compensation of victims of crime;

1 (e) Was injured or killed while serving a sentence of imprisonment in a
2 prison or jail;

3 (f) Was injured or killed while living in a facility for the commitment or
4 detention of children who are adjudicated delinquent pursuant to chapter
5 62 of NRS; or

6 (g) Fails to cooperate with law enforcement agencies. Such cooperation
7 does not require prosecution of the offender.

8 2. Paragraph (a) of subsection 1 does not apply to a minor who was
9 physically injured or killed while being a passenger in the vehicle of an
10 offender who violated NRS 484.379 **or section 9 of this act** or is
11 punishable pursuant to NRS 484.3795 **~~H~~ or section 11 or 12 of this act.**

12 3. A victim who is a relative of the offender or who, at the time of the
13 personal injury or death of the victim, was living with the offender in a
14 continuing relationship may be awarded compensation if the offender
15 would not profit by the compensation of the victim.

16 4. The compensation officer may deny an award if he determines that
17 the applicant will not suffer serious financial hardship. In determining
18 whether an applicant will suffer serious financial hardship, the
19 compensation officer shall not consider:

20 (a) The value of the victim's dwelling;

21 (b) The value of one motor vehicle owned by the victim; or

22 (c) The savings and investments of the victim up to an amount equal to
23 the victim's annual salary.

24 **Sec. 44.** NRS 458.300 is hereby amended to read as follows:

25 458.300 Subject to the provisions of NRS 458.290 to 458.350,
26 inclusive, an alcoholic or a drug addict who has been convicted of a crime
27 is eligible to elect to be assigned by the court to a program of treatment for
28 the abuse of alcohol or drugs pursuant to NRS 453.580 before he is
29 sentenced unless:

30 1. The crime is a crime against the person punishable as a felony or
31 gross misdemeanor as provided in chapter 200 of NRS or the crime is an
32 act which constitutes domestic violence as set forth in NRS 33.018;

33 2. The crime is that of trafficking of a controlled substance;

34 3. The crime is that of driving under the influence of intoxicating
35 liquor **~~for while a habitual user~~** or under the influence of a controlled
36 substance or while **~~incapable of safely driving~~** **impaired to any degree**
37 because of the use of any chemical, poison or organic solvent as provided
38 for in NRS 484.379 **~~H~~ or section 9 of this act**, or such driving which
39 causes the death of or substantial bodily harm to another person as
40 provided in NRS 484.3795 **~~H~~ or section 11 or 12 of this act;**

41 4. The alcoholic or drug addict has a record of two or more
42 convictions of a crime described in subsection 1 or 2, a similar crime in

1 violation of the laws of another state, or of three or more convictions of
2 any felony;

3 5. Other criminal proceedings alleging commission of a felony are
4 pending against the alcoholic or drug addict;

5 6. The alcoholic or drug addict is on probation or parole and the
6 appropriate parole or probation authority does not consent to the election;
7 or

8 7. The alcoholic or drug addict elected and was admitted, pursuant to
9 NRS 458.290 to 458.350, inclusive, to a program of treatment not more
10 than twice within the preceding 5 years.

11 **Sec. 45.** NRS 629.065 is hereby amended to read as follows:

12 629.065 1. Each provider of health care shall, upon request, make
13 available to a law enforcement agent or district attorney the health care
14 records of a patient which relate to a test of his blood, breath or urine if:

15 (a) The patient is suspected of driving, operating or being in actual
16 physical control of a vehicle or a vessel under power or sail while under
17 the influence of intoxicating liquor or a controlled substance in violation of
18 NRS 484.379, 484.3795, subsection 2 of NRS 488.400 , NRS 488.410 or
19 488.420 ~~§~~ or section 9, 11 or 12 of this act; and

20 (b) The records would aid in the related investigation.

21 To the extent possible, the provider of health care shall limit the inspection
22 to the portions of the records which pertain to the presence of alcohol or a
23 controlled substance or its metabolite in the blood, breath or urine of the
24 patient.

25 2. The records must be made available at a place within the depository
26 convenient for physical inspection. Inspection must be permitted at all
27 reasonable office hours and for a reasonable length of time. The provider
28 of health care shall also furnish a copy of the records to the law
29 enforcement agent or district attorney who requests it and pays the costs of
30 reproducing the copy.

31 3. Records made available pursuant to this section may be presented as
32 evidence during a related criminal proceeding against the patient.

33 4. A provider of health care, his agents and employees are immune
34 from any civil action for any disclosures made in accordance with the
35 provisions of this section or any consequential damages.

36 **Sec. 46.** The amendatory provisions of this act do not apply to
37 offenses that were committed before October 1, 1999.